

ORIGINAL

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2009 NOV 12 PM 3:19

JEANNE THORS, CLERK ✓

BY: V. Adams

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
2 IN AND FOR THE COUNTY OF YAVAPAI
3
4 THE STATE OF ARIZONA,)
5 Plaintiff,)
6 vs.)
7 STEVEN CARROLL DEMOCKER,)
8 Defendant.)
9

p. 1300

No. ✓ CR 2008-1339

10
11 BEFORE: THE HONORABLE THOMAS B. LINDBERG
12 JUDGE OF THE SUPERIOR COURT
13 DIVISION SIX
YAVAPAI COUNTY, ARIZONA

14 PRESCOTT, ARIZONA
15 THURSDAY, OCTOBER 29, 2009
16 2:11 P.M.

17 REPORTER'S TRANSCRIPT OF PROCEEDINGS
18 PROBABLE CAUSE HEARING ON AGGRAVATING CIRCUMSTANCES

19 TESTIMONY OF DOUGLAS BROWN
20
21
22
23

24 ROXANNE E. TARN, CR
25 Certified Court Reporter
Certificate No. 50808

1

INDEX

2

3

TESTIMONY

4

5

PAGE

6

DOUGLAS BROWN

7

Direct examination resumed by Mr. Butner

3

8

Cross-examination by Mr. Sears

19

9

Redirect examination by Mr. Butner

90

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

OCTOBER 29, 2009
2:11 P.M.

1
2
3 APPEARANCES:

4 FOR THE STATE, MR. JOE BUTNER.
5 FOR THE DEFENDANT, MR. JOHN SEARS AND
6 MR. LARRY HAMMOND

7 THE COURT: Record reflects the presence of
8 the defendant, his counsel, the prosecutor Mr. Butner.
9 Detective Brown is still on the stand under direct
10 examination.

11 You may proceed.

12 MR. BUTNER: Thank you, Judge.

13 DIRECT EXAMINATION RESUMED

14 BY MR. BUTNER:

15 Q. Detective Brown, when we left off, basically, you
16 had just testified, if you recall, that Katie Democker had
17 left the country on Saturday, June the 28th; is that correct,
18 sir?

19 A. That's correct.

20 Q. And how did you find that out?

21 A. Initially, I heard that information from
22 Mr. Knapp.

23 Q. And did you confirm it through any other sources?

24 A. I believe Sharlot Democker said that and also
25 Mr. Democker.

Q. So as a result of that, who was residing in the

1 main house at Bridle Path?

2 A. Carol Kennedy.

3 Q. Anybody else?

4 A. Not at that time, no.

5 Q. Did you find evidence in some fashion that Carol
6 Kennedy and Mr. Democker were communicating back and forth on
7 the date of July the 2nd, 2008?

8 A. Through text messages.

9 Q. Okay. Where were these text messages located that
10 you found?

11 A. There were some -- eventually we found those from
12 Carol's phone.

13 On the night -- or the morning I spoke
14 with Mr. Democker, he showed me some that were still saved on
15 his phone.

16 Q. And do you recall, basically, what the subject of
17 conversation was in those text messages?

18 A. That was referenced the picking up the BMW and
19 then also exchanging checks, I believe.

20 Q. Did you have a conversation with Mr. Democker
21 about what this exchanging checks was all about?

22 A. It was referenced the 401-K.

23 Q. Did you have a conversation with him about that?

24 A. Yes, sir, I did.

25 Q. Okay. When did you have that conversation?

1 A. In the early morning hours of the 3rd.

2 Q. And what did Mr. Democker tell you?

3 A. He indicated it was from a 401-K distribution, and
4 the money after the payments were made were going to be split
5 over a certain amount.

6 Q. Did he tell you whose 401-K was being distributed?

7 A. I believe he said it was his 401-K at the time.

8 Q. Did he indicate how much money we are talking
9 about here?

10 A. After the distribution, he indicated that he was
11 going to be getting 8,000 -- I think it was 8300, and she --
12 no -- yeah, she was supposed to pay him 8300, and then his
13 check to her for 6,000, so it would be a difference of 2300.

14 Q. And what was his check to her for?

15 A. That's the alimony -- her money.

16 Q. Spousal maintenance?

17 A. Yes.

18 Q. And what's the 8300 for?

19 A. That was whatever the difference was from the
20 split.

21 Q. And did you find some e-mails at the -- that were
22 located at the Bridle Path residence?

23 A. Yes, I did.

24 Q. And let me show you what's been marked as Exhibit
25 119.

1 MR. SEARS: No objection.

2 MR. BUTNER: Offering Exhibit 119 at this
3 time, your Honor.

4 THE COURT: Any objection?

5 MR. SEARS: No objection.

6 THE COURT: Exhibit 119 is admitted.

7 MR. BUTNER: Thank you.

8 Q. And what is basically the date of those e-mail
9 correspondence between Mr. Democker and Ms. Kennedy?

10 A. There is two e-mails that were sent from
11 Mr. Democker to Ms. Kennedy, both on July 1st,
12 approximately -- one is 2302 and one is 2315 hours.

13 Q. And then are there notes on those e-mails and some
14 accompanying documents -- notes apparently made by
15 Ms. Kennedy?

16 A. That's correct.

17 Q. And what is the gist of the communication between
18 the two? In other words, what is the subject matter that
19 they are discussing in the e-mails?

20 A. It is referenced the money from the QDRO account,
21 and Mr. Democker's e-mail indicates what he believed he's
22 owed. Her writing is what -- she is disagreeing with that
23 and -- what she is writing about the information on that.

24 Q. Basically, she's disputing that he's owed -- he's
25 saying that he is owed \$8300; is that correct?

1 A. Correct.

2 Q. And she is disputing that and saying that he isn't
3 owed that and, in fact, he owes her money?

4 A. That's correct. And the second e-mail is
5 reference to payment to the Visa, I think, from that QDRO
6 account.

7 Q. Payment to what Visa?

8 A. The UBS Visa.

9 Q. And what's the gist of that conversation, so to
10 speak?

11 A. Mr. Democker wrote on his e-mail that she had not
12 paid the \$20,000 to that Visa account. Her side note says
13 that is incorrect, that she has paid the 20,000, and she
14 attached a photocopy of the cashier's check.

15 Q. And what is the amount of the cashier's check
16 attached?

17 A. 20,000.

18 Q. And again, just another dispute about money
19 between Mr. Democker and Ms. Kennedy?

20 A. That's correct.

21 Q. These were found in the kitchen of the Bridle Path
22 residence, to your understanding?

23 A. They were found in a magazine that was in the
24 kitchen of the Bridle Path residence.

25 Q. Let's back up just a little bit. I would like to

1 go back to the crime scene with you. We didn't put any
2 photographs in yesterday, and I would like you to take a
3 look --

4 MR. SEARS: Could we approach, your Honor?

5 THE COURT: Yes.

6 (Whereupon, a discussion was held
7 at side bar off the record.)

8 MR. BUTNER: Okay.

9 THE COURT: Any objection to approaching
10 these, Mr. Sears, as a unit and submitting them in that
11 fashion?

12 MR. SEARS: No, your Honor. That would be
13 fine. If you want to call them A, B, C, or however you want
14 to do it.

15 MR. BUTNER: Well, they are all numbered. I
16 can say the numbers on the record, Judge.

17 And I will just ask the detective to take
18 a look at all of them, and they would be exhibits numbered --

19 THE COURT: 102.

20 MR. BUTNER: 102 through 118.

21 Q. And please, kind of hold them down on the table
22 and then just take a look at them and see if you can identify
23 what those are. And I don't mean specifically first, I mean
24 generally first. Okay?

25 A. (Whereupon, the witness reviews a document.)

1 Q. Okay. What are they?

2 A. This is the room where the incident occurred in
3 what I called the "office" on the date of 7/3/08.

4 Q. It's the room where what?

5 A. What I called the office, where Carol's body was
6 found. These pictures were taken on July 3rd, 2008.

7 Q. So they are pictures of Carol's body as it was
8 found by the first responders and as it looked when you
9 arrived at the crime scene?

10 A. No. This would be on July 3rd, so this would be
11 the next morning.

12 Q. Okay. Did it look the same the next morning as it
13 did when you got there?

14 A. It looked similar. I just -- what I remember in a
15 picture from Item No. 102, there's a -- I think it's a pillow
16 and a sheet, I think, that fell off the chair. So pictures
17 prior to that may not be in that position.

18 Q. Okay. Aside from that, though, basically, the
19 body is in the same position in which you observed it when
20 you first arrived at the crime scene?

21 A. Correct.

22 Q. And then the other pictures that are not of the
23 body, they are of the crime scene in general, the various
24 items that you were discussing in your testimony yesterday;
25 is that correct?

1 A. Correct. It appears to be all from just that
2 room.

3 Q. Right. Okay.

4 MR. BUTNER: I'd move for their admission at
5 this time.

6 MR. SEARS: No objection.

7 THE COURT: Exhibits 102 through 118 inclusive
8 are admitted.

9 BY MR. BUTNER:

10 Q. I need to talk to you about a few of those,
11 because it's not real clear to me what is depicted in these
12 exhibits. For example, Exhibit No. 118, would you tell us
13 what that is a picture of, please.

14 A. You can see on the --

15 Q. And show the judge.

16 A. This is the string for the window treatments,
17 window blinds. So this is the east wall, and it just -- I
18 believe there is blood spatter in the picture.

19 Q. That's the east wall?

20 A. That's correct.

21 Q. And that's the wall on the opposite side of the
22 room from where the desk was located?

23 A. That's correct.

24 Q. And there is blood spatter on that wall?

25 A. That's correct.

1 Q. And then in Exhibit No. 117, what is depicted in
2 that particular exhibit?

3 THE COURT: If you wish to approach at any
4 point, Mr. Sears, during this to make sure what we are
5 looking at, you may -- if you want to look over his shoulder.

6 MR. BUTNER: Yeah, if you want to come up
7 here.

8 MR. SEARS: Thank you.

9 THE COURT: You were going to explain 117.

10 THE WITNESS: This is just the side of the
11 desk nearest the interior door, with the interior door
12 against the wall and Ms. Kennedy's body next to the desk.

13 And in this picture you can also see the
14 plastic tubs that are out in the hallway.

15 BY MR. BUTNER:

16 Q. Let me show you what has been marked as Exhibit
17 No. 116.

18 First of all, from what point is that
19 photograph taken? Can you tell?

20 A. This would be in the hallway.

21 Q. Looking into the room?

22 A. Looking into the room and looking north.

23 And this is the side of the desk, just a
24 little bit higher up. So you see the exterior door in this
25 picture, and you see the ladder over the door.

1 Q. And then Exhibit 115, what is depicted in that
2 photo?

3 A. This would be standing in the hallway, taking a
4 picture of the tubs. And then there is blood spatter on the
5 floor and the carpeting and the tile in the hallway.

6 Q. And then Exhibit 114, what is depicted in that
7 photo?

8 A. This would be looking to the east. You can see
9 the window where the earlier picture with the blood spatter
10 would be. And this is the shelving unit that was pushed
11 over.

12 Q. And then Exhibit 113?

13 A. Just a different angle of the same -- kind of the
14 same view, looking toward the east with the shelving unit.

15 Q. Okay. And then Exhibit 112, what is depicted in
16 that?

17 A. This would be facing south. This is the --
18 someone would be standing outside on the concrete patio or
19 walkway. The exterior door is open. You can see the closet,
20 which has no closet doors on it, and you can see the interior
21 opening to the hallway.

22 Q. So it is taken from a point outside of the
23 house --

24 A. Correct.

25 Q. -- looking through the open doorway into that

1 office room, and it actually goes all the way through and
2 looks into the hallway on the opposite side of the room?

3 A. Correct. And past that you can see what would be
4 Carol's bedroom.

5 Q. And then Exhibit 111, what is depicted in that?

6 A. Again, this is of the east wall. It is just over
7 the shelving unit that is tipped over, and the window, and
8 then the little nook area, I guess.

9 Q. And what is depicted in Exhibit 110?

10 A. This would be facing south, looking towards the
11 interior door into the hallway. From this place you would
12 actually be inside the room, and you can see the ladder
13 against the interior door.

14 Q. And this is what you called a "staged scene"?

15 A. With the ladder, yes.

16 Q. Okay. Let me show you what has been marked as
17 Exhibit 109.

18 What is depicted in that photograph?

19 A. This would be facing west. This is the edge of
20 the desk that has the blood on it, on the top portion of it.
21 You can't tell. You can't see the side of the desk in this
22 picture.

23 Q. Let me show you what has been marked as
24 Exhibit 103.

25 And what is depicted in that exhibit?

1 A. This would be the side of the desk and just more
2 of a close-up of Carol's body next to the desk -- most likely
3 standing in the hallway.

4 MR. SEARS: Could I have that number again,
5 please?

6 MR. BUTNER: 103.

7 Q. And then let me show what you has been marked as
8 Exhibit 105.

9 What is depicted in that?

10 A. This is the desk-top calendar that was on the
11 desk, and there is a large -- I think I called it "chunk"
12 yesterday, of blood that is on some type of a statement.

13 Q. Another picture of that same thing in Exhibit
14 No. 106?

15 A. Correct. It's just zoomed in a little bit.

16 Q. And then Exhibit 107.

17 What is depicted in Exhibit 107?

18 A. This is the small section of wall in between the
19 interior door and the closet door, so on the south side.

20 Q. That is the doorway that is the entrance to the
21 office from the hallway.

22 A. Correct.

23 Q. In other words, the interior doorway to that
24 office room in which her body was located?

25 A. Correct. And you can see the tubs, again, in the

1 hallway.

2 Q. And then Exhibit 108.

3 What is depicted in Exhibit 108?

4 A. It is just the inside of the room, looking out
5 towards the hallway, through the interior door. You can see
6 the lower section of that small wall portion between the
7 interior door and the closet. And the ladder can also be
8 seen in that picture.

9 Q. And do you see the blood spatter on the wall, that
10 small portion of wall between the closet and the doorway
11 exiting into the hallway?

12 A. Yes.

13 Q. And the ladder goes across that doorway; right?

14 A. Yeah, it's propped up against that. I don't think
15 it's actually touching the door at the top. It's against
16 that wall.

17 Q. It is against the west wall; is that correct?

18 A. That's correct.

19 Q. And there was no blood spatter on the ladder, even
20 though it was going across in front of that wall on which
21 blood spatter was located.

22 A. That's correct.

23 Q. And is this part of what caused you to draw the
24 conclusion that the scene was staged?

25 A. That's correct.

1 Q. And then Exhibits 102 and 104.

2 What is depicted in Exhibits 102 and 104?

3 A. 102 is a picture of Carol's body on the carpeted
4 floor with her head -- you can see the desk on the upper
5 right corner. And you can see the ladder propped over -- it
6 is not over her body, but it's in the same line as her body.

7 And 104 is just a little bit zoomed in on
8 that same picture.

9 Q. And in regard to those photographs, is the blood
10 that you were discussing yesterday that was found in the
11 midsection underneath her body depicted in those photographs,
12 also?

13 A. Yes, it is.

14 Q. Okay. And then the larger pool of blood up by her
15 head; is that correct?

16 A. That's correct.

17 Q. Thank you.

18 MR. BUTNER: What were those exhibit numbers,
19 again?

20 THE COURT: 102 through 118.

21 MR. BUTNER: Thank you, Judge.

22 Q. When you spoke with Mr. Democker, you first spoke
23 with him on the telephone; right?

24 A. That's correct.

25 Q. And did he indicate to you that they had been

1 discussing finances prior to her death?

2 A. Not on the phone call, no.

3 Q. When you interviewed him shortly thereafter; is
4 that correct?

5 A. That's correct.

6 Q. Approximately what time did that interview take
7 place?

8 A. Still on the roadway, I think it was just after
9 midnight, and then after 1:30 at the office.

10 Q. Okay. What did he tell you they had been
11 discussing?

12 A. He mentioned the QDRO distribution. I believe
13 that's the only financial information he was talking about.

14 Q. Did he indicate to you whether they had a
15 disagreement over the QDRO distribution or not?

16 A. If I could look through my notes. I don't recall
17 if there was actually a disagreement. It was just he was
18 saying that they were going to be exchanging checks. I am
19 not sure he mentioned that -- if she was disagreeing with
20 that at that time.

21 Q. You don't recall for sure?

22 A. I don't recall for sure. I can look through the
23 notes, though.

24 Q. Okay. In regard to -- yesterday we were talking
25 about the golf club for the garage sale and you went back and

1 refreshed your recollection for today's testimony; is that
2 correct?

3 A. Correct.

4 Q. And in regard to the golf club, did you interview
5 any witnesses that told you that Mr. Democker had told them
6 that he was providing a golf club to Carol for her garage
7 sale?

8 A. They indicated they knew, after the fact.

9 Q. It is a simple question. It is a yes or a no.

10 Did you interview any witnesses that told
11 you that Mr. Democker had told them that he was providing a
12 golf club to Carol for the garage sale?

13 A. If I can rehear the question, I can answer it.

14 Q. Okay. You don't understand it?

15 A. I understand it. It's just "providing" and
16 "provided," I think is the difference.

17 Q. You are talking about after the fact; is that
18 correct?

19 A. Correct.

20 Q. Did Mr. Democker tell anybody he was going to give
21 Carol a golf club for the garage sale?

22 A. He indicated that he did give a golf club to Carol
23 for the garage sale.

24 Q. Who did he indicate that to?

25 A. To Jacob Jenesak and Miss Rene Gerard.

1 Q. So Jacob informed you that Mr. Democker told him
2 that he had given Carol a golf club for her garage sale?

3 A. That's correct.

4 Q. And Rene Gerard also told you that?

5 A. That's correct.

6 Q. Did either of them tell you what kind of golf club
7 was provided?

8 A. Jacob indicated he thought it was a driver. He
9 also indicated he was not positive on that, because there was
10 a set of golf clubs that Mr. Democker was thinking of giving
11 to his father, and he didn't know if they were the same.

12 Q. Did Rene Gerard know what type of golf club was
13 provided?

14 A. I don't believe she knew the type of golf club.

15 MR. BUTNER: Can I have just a moment, Judge?

16 THE COURT: Uh-huh.

17 MR. BUTNER: I don't have any further
18 questions of this witness at this time.

19 THE COURT: Mr. Sears.

20 MR. SEARS: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. SEARS:

23 Q. Deputy Brown, let me see if I understand your
24 sequence of assignments in this case.

25 At one point, I was told that you were

1 the case agent in this matter; is that right?

2 A. That's correct.

3 Q. When were you made the case agent?

4 A. July 2nd '08, that night, sometime after
5 ten o'clock, I believe.

6 Q. When you were called out to the scene, you were
7 told this would be your case?

8 A. When I got to the scene, that's correct.

9 Q. By whom?

10 A. Sergeant Huante.

11 Q. And was Sergeant Huante your sergeant at the time?

12 A. Yes, he was.

13 Q. Okay. And at some time, apparently, in September
14 of 2008, you were replaced by Detective McDormett; is that
15 right?

16 A. I am not sure of the exact date, but sometime
17 around September, that's correct.

18 Q. And you were told that you would no longer be the
19 case agent and now Detective McDormett would be taking over;
20 is that right?

21 A. That's correct.

22 Q. And were you given additional assignments in this
23 investigation after you were no longer the case agent?

24 A. Yes, I was.

25 Q. And apparently, at some point this year, perhaps

1 last month, you went from being a detective to being a patrol
2 deputy; is that right?

3 A. That's correct. I started back in patrol
4 September 20th.

5 Q. And was that your idea?

6 A. Yes, it was.

7 Q. Were you aware of criticism inside the Sheriff's
8 office of your work in this case?

9 A. Criticism?

10 Q. Of your work in this case.

11 A. No, sir.

12 Q. No one has told you that they had strong criticism
13 of some parts of the work you did in this case?

14 A. I think people have opinions on the work I did in
15 this case.

16 Q. Were they critical opinions?

17 A. I don't know -- no one has specifically come up
18 and asked me about critical opinions or talked to me about
19 critical opinions.

20 Q. So your shift from case agent to a detective
21 assigned to the case to patrol deputy, each of those changes
22 was at your insistence?

23 A. No, they believed Detective McDormett could do a
24 better job, as far as handling the case, in September of '08.

25 Q. Now, let's talk about the work that you did the

1 night of July 2nd and the morning hours of July 3rd.

2 You had contact with Mr. Democker when he
3 arrived out at the Bridle Path scene; is that right?

4 A. That's correct.

5 Q. You told us yesterday about talking to him on the
6 phone. Apparently, you had just told Sharlot that her mother
7 had passed away, and she dropped the phone?

8 A. I didn't tell Sharlot that. Someone else had told
9 Sharlot that.

10 Q. Did you see Sharlot drop the phone?

11 A. No, I did not.

12 Q. Did you see Sharlot that evening?

13 A. Yes, I did.

14 Q. She was extremely emotional; wasn't she?

15 A. Yes, she was.

16 Q. Crying, very upset.

17 A. That's correct.

18 Q. And you talked to Mr. Democker on the phone, and
19 he said he wanted to come right out and be with his daughter;
20 is that right?

21 A. That's correct.

22 Q. And he did that; right?

23 A. That's correct.

24 Q. And were you the first person that had contact
25 with Mr. Democker when he arrived on the scene?

1 A. I don't know if I was the first, but relatively
2 within a short distance of that, yes.

3 Q. How was Mr. Democker appearing to you?

4 A. He was -- as far as physical appearance?

5 Q. Physical appearance, his demeanor, how he was
6 acting. He was upset; wasn't he?

7 A. He was handling it well. He was pretty stoic
8 about it. He wasn't crying or anything if that's what
9 you're --

10 Q. Did you see him get emotional at any point?

11 A. Uh-huh.

12 Q. When?

13 A. I think the first -- that I recall, the first
14 emotion was referenced when he was talking about just having
15 coffee with her on that Sunday -- the previous Sunday.

16 Q. This was out at Bridle Path?

17 A. That's correct.

18 Q. And how did he show his emotion?

19 A. I think he just kind of paused and took a moment.

20 Q. You didn't know Mr. Democker before that evening?

21 A. No, sir.

22 Q. You didn't know whether he was a particularly
23 emotional person or a stoic person, did you?

24 A. No, sir.

25 Q. You didn't know how he would behave; correct?

1 A. No, sir.

2 Q. Did you see Mr. Democker with his daughter
3 Sharlot?

4 A. They were together briefly, yes.

5 Q. What were they doing?

6 A. I think he was hugging her at the time.

7 Q. Was she crying?

8 A. Yes, she was.

9 Q. Was he comforting her?

10 A. He was hugging her at the moment, yes.

11 Q. As you would expect?

12 A. Correct.

13 Q. Now, at some point pretty quickly, a decision was
14 made that you wanted to talk to Mr. Democker and Sharlot and
15 Jacob back at the sheriff's office; is that right?

16 A. We talked out on the roadside for quite a while.

17 Q. What is quite a while?

18 A. I can look through notes and get approximate --

19 Q. Do you have some recollection? Two minutes? Half
20 an hour?

21 A. No. It was -- I would say approximately half an
22 hour.

23 Q. Have you ever been a case agent in a homicide case
24 before this one?

25 A. No, sir.

1 Q. Would it be fair to say this was a very important
2 matter for you to be handling in your career as a detective?

3 A. Could you repeat the question.

4 Q. This was a very important matter for you to be
5 handling so early in your career as a detective; correct?

6 A. I think every case is important, yes.

7 Q. You had only been a detective for about a
8 year-and-a-half; is that right?

9 A. At that time, yes, that's correct.

10 Q. This was the biggest case you had ever worked on
11 at that point; correct?

12 A. At that point, I didn't know how big the case
13 was.

14 Q. In hindsight, this is the biggest case you've ever
15 worked on; correct?

16 A. I agree with that.

17 Q. Okay. And at some point after you had talked with
18 Mr. Democker, you wanted him to go with you to the police
19 station and continue this discussion; correct?

20 A. That's correct.

21 Q. And he agreed to go?

22 A. That's correct.

23 Q. And there was some discussion about whether he
24 would ride in a police vehicle, and ultimately he was
25 permitted to drive his own car; correct?

1 A. That's correct.

2 Q. And Sharlot and Jacob also went to the police
3 station; is that right?

4 A. That's correct.

5 Q. Who did you interview?

6 A. I interviewed Mr. Democker.

7 Q. Alone?

8 A. At times alone, and at times Sergeant Huante was
9 in the room.

10 Q. And who interviewed Sharlot?

11 A. At our office, I know that Commander Masher
12 {phonetic spelling} did. I am not sure if anyone else did at
13 that time.

14 Q. Who interviewed Jacob?

15 A. I believe Commander Masher.

16 Q. Were Sharlot and Jacob interviewed together?

17 A. I think there was points where they were
18 interviewed separately, and then possibly at times they were
19 interviewed together.

20 Q. And from time to time did you step out of your
21 interview with Mr. Democker to compare notes with Commander
22 Masher and anyone else that was around?

23 A. Mostly Sergeant Huante would inform me of what was
24 going on with that.

25 Q. One of the reasons that you wanted to interview

1 Mr. Democker at the police station was there was a recording
2 device there; is that correct?

3 A. That's correct.

4 Q. You wanted a recording of this interview; is that
5 right?

6 A. That's correct.

7 Q. Now, how long did Mr. Democker speak with you?

8 A. I know it started at approximately 1:30. I don't
9 know when the last contact was. I think it was approximately
10 4:00 in the morning, give or take.

11 Q. So he talked with you for about two-and-a-half
12 hours; is that right?

13 A. I believe so, yes.

14 Q. And he answered all of your questions, didn't he?

15 A. He answered all of my questions.

16 Q. He didn't refuse to talk about any aspect of what
17 you wanted to ask him about; correct?

18 A. Every question I asked he answered.

19 Q. And this was a wide-ranging interview. You talked
20 about his relationship with Carol; correct?

21 A. That's correct.

22 Q. And you talked about his business; correct?

23 A. That's correct.

24 Q. You talked about where he had been that evening;
25 correct?

1 A. Correct.

2 Q. Now, my understanding is that you had been working
3 out in the Cordes area prior to your involvement in this
4 case; is that right?

5 A. No, that's not correct.

6 Q. Where had you been working?

7 A. I worked in the Mayer area when I was in patrol.
8 The year-and-a-half in CI, I worked in the Camp Verde area.

9 Q. You hadn't worked in the Prescott area, though?

10 A. Just -- I think I had a brief stint while I was in
11 patrol for like two weeks.

12 Q. You weren't familiar with the Granite
13 Mountain/Williamson Valley area particularly; is that right?

14 A. I know Granite Mountain. I don't know much about
15 Williamson Valley.

16 Q. You know Granite Mountain from off duty, going out
17 to hike and ride a bike out there?

18 A. Hiking.

19 Q. Now, were you familiar with all the trails in the
20 Granite Mountain area?

21 A. No, sir.

22 Q. Just the ones that you hiked on?

23 A. Correct.

24 Q. Now, let's go ahead a little bit in time. When
25 you finished the interview or during the interview, a

1 decision was made at some point to seek search warrants to
2 search Mr. Democker's home, his automobile, and his office,
3 which was near his home; correct?

4 A. That's correct.

5 Q. And the idea then was to keep Mr. Democker away
6 from those locations while the search warrants were obtained
7 and then executed; correct?

8 A. Those locations where we had officers at the
9 location. Mainly, Mr. Democker stayed with us just to get
10 the physical evidence from him.

11 Q. And he agreed to do all of that. "All of that"
12 being submit to blood, a buccal swab; is that right?

13 A. I don't know if I asked him. I advised -- at the
14 time I advised through the person that was there with him
15 that we were obtaining a search warrant.

16 I know that -- just going through the
17 transcripts, I remember that he was willing to give his own
18 DNA, but I don't specifically ask him for certain things, I
19 don't think.

20 Q. At some point in the early morning of July 3rd,
21 Mr. Democker asked to call an attorney; is that right?

22 A. No, sir.

23 Q. Did Mr. Democker call an attorney?

24 A. I believe so, yes.

25 Q. He had access to a phone and called someone?

1 A. He had a cell phone the whole time he was -- not
2 the whole time, but most of the time he was --

3 Q. And his divorce attorney eventually appeared in
4 the sheriff's office; is that correct?

5 A. That's correct.

6 Q. That was sort of the end of the interview;
7 correct? When she was there, she suggested that
8 Mr. Democker would not be answering any more questions?

9 A. That's correct.

10 Q. And you were already in the process of having
11 search warrants prepared for submission to the judge in the
12 morning; correct?

13 A. That's correct.

14 Q. Now, Mr. Democker stayed away from his home and
15 his automobile and his office while the search warrants were
16 executed; is that right?

17 A. That's correct.

18 Q. Now, at some point in the afternoon, we heard that
19 the autopsy of Carol Kennedy took place, and you told us that
20 you attended that; is that right?

21 A. That's correct.

22 Q. As a result of the statements from Dr. Keen about
23 a golf club being a possible weapon involved in this, someone
24 from the sheriff's office apparently remembered seeing golf
25 clubs that were not seized and this empty golf head cover at

1 Mr. Democker's home; correct?

2 A. That's correct.

3 Q. And did you direct someone to prepare another
4 search warrant to go back later in the day on July 3rd to
5 Mr. Democker's residence?

6 A. I don't know if I specifically directed him, but
7 it was directed to Detective Diskin.

8 Q. And that was your idea; right? You were the case
9 agent?

10 A. No. It was Sergeant Huante. It wasn't like my
11 personal idea.

12 Q. And you thought when you went back that you were
13 going back to look for this head cover; correct?

14 A. That's correct.

15 Q. And golf clubs and shoes that you might not have
16 taken?

17 A. That's correct.

18 Q. Okay. Now, you've had a chance in the last 15
19 months to look at that second search warrant affidavit?

20 A. Yes, I have.

21 Q. And the search warrant itself?

22 A. That's correct.

23 Q. It doesn't say anything about a golf head cover;
24 does it?

25 A. No, it doesn't.

1 Q. So when you went back the second time, you didn't
2 have a search warrant for the head cover; correct?

3 A. I didn't indicate it, that's correct.

4 Q. Now, going back in time, back to the time that
5 these photographs that you have -- do you still have those
6 last batch of photos?

7 Let me show you particularly -- this is
8 102 and 103. These are photographs of Miss Kennedy's body;
9 correct? And you said that these were taken sometime in the
10 morning of July 3rd; is that right?

11 A. That's correct.

12 Q. Her body was actually on the scene for quite some
13 period of time after it was discovered; correct?

14 A. That's correct.

15 Q. Do you know when it was removed?

16 A. I can look. Exact time, no, I don't. I can
17 look through the notes --

18 Q. Late morning?

19 A. Early afternoon. I would say afternoon.

20 Q. Take a look at these two photos. You can see in
21 both of these photos there are a number of objects near the
22 body, particularly by the head. And this photo here is
23 particularly illustrative -- this is 103. There is a piece
24 of molding covered with blood on it. Actually, it is right
25 next to her head; isn't it?

1 A. That's correct.

2 Q. And that molding appears to have come off this
3 corner of the desk. You can see in this Photograph 103, a
4 little peg there. That is where this piece of wood was;
5 right?

6 A. That's correct.

7 Q. And then there is a plastic bottle here by her
8 head. I think it's skunk odor remover?

9 A. It's pet urine --

10 Q. Pet smell remover.

11 A. Yes.

12 Q. Okay. And that's also covered on quite a few
13 surfaces with blood; correct?

14 A. That's correct.

15 Q. And then there is a -- what is this object here
16 next to her body?

17 A. It's a white checkbook cover.

18 Q. Okay. Now, this piece of molding and this
19 bottle are right next to the body; is that correct?

20 A. That's correct.

21 Q. They weren't collected; were they?

22 A. The piece of molding was collected.

23 Q. Really?

24 A. I believe so. I can double check that.

25 Q. Would you?

1 A. Okay. It is Item No. 506.

2 Q. What does it say?

3 A. "Gray desk trim with reddish stains/hair."

4 THE COURT: When you are saying 506, that's
5 the sheriff's office --

6 THE WITNESS: Yes, Sheriff's Office Item
7 No. 506.

8 BY MR. SEARS:

9 Q. There were two pieces of bloody molding knocked
10 off the desk; weren't there?

11 A. I don't believe so.

12 Q. You don't think so?

13 A. I mean, in this picture I see the one piece that I
14 believe is Item No. 506.

15 Q. You don't remember the other piece?

16 A. Not offhand, no, sir.

17 Q. What about the white plastic bottle? That was not
18 collected, was it?

19 A. That was not collected.

20 Q. It was right next to the body covered with the
21 victim's blood?

22 A. That's correct.

23 Q. What about the white checkbook cover?

24 A. That was collected.

25 Q. Any other objects on the desk top, for example,

1 with the victim's blood that were not collected?
2 Specifically, there is a check for \$300 payable to a credit
3 card company.

4 Can you see that on the photograph of the
5 desk?

6 A. No, sir.

7 Q. Do you remember seeing it when you were there?

8 A. I remember seeing items on the desk. I don't
9 particularly recall a check for 300, no.

10 Q. Did you direct the collection of evidence?

11 A. I was present during some of the collection of
12 evidence.

13 Q. Would it have been good police practice to collect
14 all of the items, particularly the items next to the victim's
15 body that were covered with blood?

16 A. Yes. I specifically did not collect the bottle.
17 I recall that.

18 Q. There was also a ball on the floor. Can you see
19 that in the picture?

20 A. Yes, I can.

21 Q. That had the victim's blood on it, too; didn't it?

22 A. That I don't know.

23 Q. Was that collected?

24 A. I don't believe the ball was collected, no.

25 Q. What about items under the victim's body? There

1 was some blotted-up paper when you moved the body that had
2 the victim's blood on it. That wasn't collected; correct?

3 A. That's correct.

4 Q. Let's talk about Mr. Knapp. You actually had --
5 law enforcement had contact with Mr. Knapp much earlier in
6 the evening of July 2nd than the contact with Mr. Democker;
7 correct?

8 A. I believe they had contact with him just after
9 9:00 p.m.

10 Q. So he was the first non-law-enforcement person on
11 the scene after the body was discovered; wasn't he?

12 A. That's correct.

13 Q. Mr. Knapp told the deputy that he lived in the
14 guest house, and that he had been at his former wife's house
15 in Prescott; correct?

16 A. That's correct.

17 Q. How many days went by before you or anyone else
18 connected with this case investigated Mr. Knapp's alibi?

19 A. I spoke to his ex-wife on the 6th.

20 Q. Which would be four days later?

21 A. Yes.

22 Q. And that conversation was a brief one to schedule
23 a longer interview at a later date; correct?

24 A. That's correct.

25 Q. And so there was no significant discussion of her

1 interaction with Mr. Knapp on the 6th; was there?

2 A. No, it was a brief contact.

3 Q. When was the actual longer interview?

4 A. I don't have the date exactly. I can look if you
5 need me to.

6 Q. Sure.

7 A. (Whereupon, the witness reviews a document.)

8 On July 31st, I spoke with Miss Saxerud
9 and then again with her and her son on August 1st.

10 Q. Tell me what you did between July 6th and
11 July 31st, if anything, to investigate Mr. Knapp's alibi.

12 A. I requested cell phone records from Mr. Knapp and
13 a search warrant was sent out to -- I can't recall the
14 company that he had his cell phone for, but can I can check
15 that if you need me to.

16 Q. Was there any effort made by law enforcement to
17 preserve the cell phone data or the cell phone tower data in
18 connection with Mr. Knapp's alibi between July 6th and July
19 31st?

20 A. Yes. A preservation letter was sent to the
21 company.

22 Q. Did you put a copy of that preservation letter in
23 the discovery file in this case?

24 A. I know there is a preservation letter. I don't
25 know if I have a copy that I personally put in, no.

1 Q. Did you provide a copy of it to the County
2 Attorney's Office?

3 A. I have no idea. I don't provide that. It was in
4 the file.

5 Q. Who sent the letter?

6 A. I believe the County Attorney's Office did.

7 Q. Okay. And did you seize Mr. Knapp's cell phone?

8 A. No, sir.

9 Q. Did you search Mr. Knapp's residence, the guest
10 house?

11 A. I walked through the residence.

12 Q. You walked through it; is that right?

13 A. That's correct.

14 Q. And you took some photographs of the garage area;
15 correct? The garage area in the guest house?

16 A. Yeah, that's correct.

17 Q. The garage area was full of objects; is that
18 correct?

19 A. That's correct.

20 Q. And you told us in the Simpson hearing that you
21 didn't search that garage carefully; correct?

22 A. That's correct.

23 Q. How far would you estimate the guest house is from
24 the main residence on that property?

25 A. The two doors are connecting. I would say 15, 20

1 yards.

2 Q. Was it apparent to you that the garage portion of
3 the guest house was the area where the yard sale items were
4 being accumulated?

5 A. No, that was not apparent to me.

6 Q. Did you ask Mr. Knapp at any point whether he knew
7 about plans that Carol had for a yard sale?

8 A. I can't recall right now. I can go through
9 that -- my interview with him, but I don't recall that.

10 Q. In fact, Mr. Knapp and Carol Kennedy were planning
11 to have a joint yard sale; weren't they?

12 A. That I don't know.

13 Q. In fact, on one or more of Carol Kennedy's
14 calendars where she kept her appointments, there were
15 references to two different dates coming up in July 2008 that
16 said "yard sale" on them; correct?

17 A. That's correct.

18 Q. So there wasn't much doubt that -- from the
19 information that you had, that Carol Kennedy was planning to
20 have a yard sale?

21 A. That's correct.

22 Q. Now, if the material for the yard sale, the
23 objects weren't being kept in the guest house garage, where
24 were they being kept?

25 A. There were some items that were in the main house

1 that were for the garage sale.

2 Q. In the main house. What part of the main house?

3 A. In the office.

4 Q. In the office area?

5 A. And then in the little hallway by the door.

6 Q. That you thought might have been yard sale items?

7 A. There was -- in the hallway there was stickers and
8 garage sale -- little stickers and everything that would
9 represent garage sale, yes.

10 Q. You said that during the interviews of young Jacob
11 Jenesak and Sharlot, they talked -- at least Jacob talked
12 about having heard that Mr. Democker had given Carol a golf
13 club for the yard sale; is that right?

14 A. That's correct.

15 Q. And did Jacob tell you when he had that
16 conversation with Mr. Democker?

17 A. No, he did not give me that date.

18 Q. Did he tell that you that Mr. Democker had said
19 when he had provided Carol with the golf club?

20 A. I don't recall if Jacob knew when.

21 Q. Your information at that time, and throughout the
22 case, was that Mr. Democker hadn't lived at that Bridle Path
23 residence for years; correct?

24 A. That's correct.

25 Q. He had purchased the Alpine Meadows home shortly

1 after they separated; correct?

2 A. I believe so. That's correct.

3 Q. And that's where he lived; correct?

4 A. That's correct.

5 Q. What information did you have or do you have that
6 indicates that once Mr. Democker gave this golf club,
7 assuming he did, to Carol, that he knew what happened to it?

8 A. I have no indication of anyone talking about after
9 he gave the golf club, what happened to it.

10 Q. Do you know what happened to the golf club?

11 A. I have no idea.

12 Q. What information do you have or did you have that
13 Mr. Democker knew that the golf club was somewhere on the
14 property of Bridle Path?

15 A. I did not know if he would know that or not.

16 Q. Do you have any idea whether Mr. Democker would
17 have known where inside the residence the golf club might
18 have been kept?

19 A. I wouldn't know.

20 Q. Do you have any information to support the idea
21 that Mr. Democker didn't give a golf club -- in fact, came to
22 the scene that night with a golf club?

23 A. Can you repeat the question to make sure I have it
24 right.

25 Q. Turning it the other way.

1 The information you had was that -- from
2 Jacob and Rene Gerard, was that Mr. Democker apparently had
3 given -- said he had given a golf club to Carol at sometime
4 in the past.

5 Do you have any information that would
6 suggest that Mr. Democker either brought that golf club or
7 some other golf club to the scene that night?

8 A. No, sir.

9 Q. Tell me what areas were searched that night,
10 looking for a weapon. Where did you search?

11 A. Throughout that -- the main office area, there was
12 nothing in there. In Carol's bedroom, laundry room, Katie's
13 room.

14 I wasn't involved in all the searches
15 with the living room and everything, but I walked through
16 that area, and I walked through the garage. Other people
17 searched different areas.

18 Q. What about outside?

19 A. They searched the outside.

20 Q. There was a horse stable on the property. Was
21 that searched?

22 A. I walked through it.

23 Q. Is there a difference between searching and
24 walking through?

25 A. I would say a search, I didn't pull every item out

1 of every location and look through it.

2 Q. Wait a minute. This is a bloody crime scene,
3 without question, with a deceased person lying on the floor;
4 correct?

5 A. That's correct.

6 Q. Appears to have been beaten to death, perhaps,
7 with something; correct?

8 A. That's correct.

9 Q. Are you telling me that you and the other police
10 officers didn't meticulously search that house and that
11 property that night looking for a weapon?

12 A. I am telling you I did not.

13 Q. You were the case agent?

14 A. That's correct.

15 Q. Did you direct other police officers to
16 meticulously search the house, the guest house, the detached
17 garage, the stable, and the property?

18 A. After I left, I am not sure what meticulous
19 searches they did outside. I just know that as far as the
20 guest house, I don't believe anyone searched further.

21 Q. The property borders thousands of acres of open
22 land; correct?

23 A. I don't know how many acres. It borders a lot of
24 open land.

25 Q. If I told you the Deep Well Ranch is about 9600

1 acres, does that sound right?

2 A. I don't know.

3 Q. There's stabling in there; correct?

4 A. That's correct.

5 Q. You looked at aerial photos of the area; correct?

6 A. That's correct.

7 Q. The area immediately adjacent to the property to
8 the north is ranch land all the way over to Highway 89; isn't
9 it?

10 A. That's not correct. To the north is a neighboring
11 property.

12 Q. Straight out. If you walk straight out the
13 back -- the door, and walked right to the fence -- the
14 barbed-wire fence, and walked straight ahead into the open
15 land, you could walk in a straight line to Highway 89;
16 couldn't you?

17 A. Yeah, that would be going to the east.

18 Q. I'm sorry. I thought you said that the door out
19 of the property was on the north wall.

20 A. The door from that office area was to the north.

21 Q. Let me correct myself.

22 If you walked east out of the property,
23 you could walk all the way to Highway 89 and still be on
24 ranch land; wouldn't you?

25 A. I didn't see the map that far, so that is

1 possible.

2 Q. You could walk -- if you go onto the land and go
3 north -- and walk all the way to the outer loop road on that
4 ranch; couldn't you?

5 A. That I don't know, but I know it's a large area.

6 Q. Well, tell me what efforts were made, if any, to
7 search those thousands of acres of open land immediately
8 adjacent to the property, for any evidence connected to this
9 crime -- weapons, gloves, coveralls, shoes, firepits --
10 anything connected to this case. What did you direct to be
11 done to search that area?

12 A. I did not direct. It was directed, and they
13 searched it on the day of the 3rd. And then I know there was
14 a search done, that I did not direct, that was done with
15 Search and Rescue.

16 Q. Of what area?

17 A. Of the area behind the house.

18 Q. How far behind the house?

19 A. I don't know.

20 Q. You're the case agent and you don't know the areas
21 that were searched?

22 A. No. That was not directed by me.

23 Q. Did you ask for reports?

24 A. Reports came in.

25 Q. And they told you what areas were searched?

1 A. I didn't read the report on that search.

2 Q. There were apparently some searches done of areas
3 that had some bicycle tire tracks and some footprints;
4 correct?

5 A. That's correct.

6 Q. It's true, isn't it, that none of the footprints
7 that were located anywhere near the scene matched any shoe
8 associated, to your knowledge, with Mr. Democker?

9 A. That's correct.

10 Q. Are you telling us here today, Deputy, that you
11 are not aware of any systematic search of any portion of the
12 open land to the east of this property, other than what
13 you've told us about? There was no attempt to come back and
14 walk, fly, drive, ride ATVs over this open land?

15 A. There was plans in the works, but I don't know any
16 more than the search on the 3rd and what was done, the grid
17 search.

18 Q. So for all you know, evidence of this crime at
19 this very moment could be under a bush someplace on the Deep
20 Well Ranch?

21 A. It's possible.

22 Q. Tell me what you did or had done to create
23 detailed crime scene diagrams with actual measurements?

24 A. I submitted a diagram of just the office area.

25 Q. Did you prepare that?

1 A. Uh-huh.

2 Q. Is that yes?

3 A. Yes, I did.

4 Q. Okay. Thank you. And when was that done?

5 A. Just recently, in the last two months, I believe.

6 Q. What? I'm sorry. Two months?

7 A. That's correct.

8 Q. The first crime scene diagram in this case?

9 A. Prepared by me.

10 Q. Prepared by you.

11 Who asked to you prepare a crime scene
12 diagram?

13 A. Detective McDormett.

14 Q. Have you done that?

15 A. Uh-huh.

16 Q. Yes?

17 A. Yes, I have.

18 Q. You gave it to Detective McDormett?

19 A. I submitted it to evidence.

20 Q. And tell me how you prepared that diagram.

21 A. I drew it up on the computer.

22 Q. From what source? What did you use for data?

23 A. I had notes with the measurements, and those notes
24 are in evidence, also.

25 Q. At what point in your contact with Mr. Democker

1 did you first begin to consider him as a possible suspect in
2 this case?

3 A. During the morning hours of the 3rd.

4 Q. And what was it that he said or did that caused
5 you to suspect him?

6 A. There was concerns as far as the time frame, that
7 he was not in contact with anyone.

8 Q. And what did he tell you the reason for not being
9 in contact was?

10 A. He stated he was on a bicycle ride.

11 Q. You have no reason to doubt that he was on a
12 bicycle ride; do you?

13 A. (No response.)

14 Q. You had no reason to doubt that he was on a
15 bicycle ride; correct?

16 A. To doubt it?

17 Q. Yes.

18 A. I think the concern was the time frame. That was
19 the doubt.

20 Q. And he told you the reason he wasn't in contact
21 was the battery on his cell phone had died or was dying;
22 correct?

23 A. He told me different statements about the cell
24 phone.

25 Q. And that he just didn't want to take a cell phone

1 on a bike ride; correct?

2 A. Initially, he stated that he got poor cell
3 coverage on the trail, and then he later indicated that his
4 cell phone battery died.

5 Q. And do you know whether either of those statements
6 were false?

7 A. Cell phone coverage, I have Verizon, so I get cell
8 coverage on the trails. So I don't have the specific phone.
9 But his cell phone was powered off between 1736 hours and
10 2208 hours. I don't know if it's the battery or not.

11 Q. Also it could have been turned off; correct?

12 A. That's correct.

13 Q. It wasn't transmitting a signal?

14 A. It was either turned off or the battery was not
15 getting the power.

16 Q. And you thought that was suspicious?

17 A. I thought with all the circumstances it was
18 suspicious, yes.

19 Q. Anything else?

20 A. On the early morning hours of the 3rd, they
21 indicated there was bicycle tracks at the end of Glenshandra.

22 Q. Did you ask Mr. Democker about those?

23 A. I didn't ask him specifically about the tracks. I
24 asked if there would be tracks matching his bike that would
25 be in the area behind the house.

1 Q. What did he say?

2 A. He said no.

3 Q. Because he hadn't ridden there. That's what he
4 told you; correct?

5 A. That is what he told us, correct.

6 Q. Did you go and look at the tracks?

7 A. I did.

8 Q. Now, I understand that you and Detective
9 Jaramillo, at some point, went to try and find where
10 Mr. Democker said he had been riding; is that correct?

11 A. That's correct.

12 Q. More familiar with the area; correct?

13 A. That's correct.

14 Q. And apparently you were very close to where he
15 said he was riding, but you just didn't find the location;
16 correct?

17 A. I was on the same section of Love Lane where that
18 trail is.

19 Q. But actually, you know now that there is a piece
20 of single track trail that goes off a spur, which is where
21 Mr. Democker said he was riding; correct?

22 A. There is a trail. I am not sure about a spur.
23 I'm not sure what you are talking about there.

24 Q. You didn't find the trail that Mr. Democker said
25 he was riding on, did you?

1 A. I have, yes.

2 Q. You didn't find it that night, did you?

3 A. That's correct.

4 Q. When did you find it?

5 A. On July 13th.

6 Q. How many times had it rained between the night of
7 July 2nd and the 13th?

8 A. I have no idea.

9 Q. It rained a lot.

10 A. I have no idea.

11 Q. That was the first time you found that area;
12 correct?

13 A. That's correct.

14 Q. And it had lots of bicycle tracks.

15 A. No, sir.

16 Q. Which part did you walk on?

17 A. I walked the entire trail.

18 Q. You think. You think you walked the trail that
19 Mr. Democker said he was on.

20 A. I walked a trail. The trail by Love Lane, I
21 definitely walked that trail.

22 Q. Is that the time that you started down at the
23 Williamson Valley trail head?

24 A. Excuse me?

25 Q. Is that the time you started down at the

1 Williamson Valley trail head?

2 A. That was the first time. That was July 13th.

3 Q. That Mr. Democker said he never rode the
4 Williamson Valley trail head; didn't he?

5 A. That's correct.

6 MR. SEARS: Excuse me, your Honor. Thank you,
7 your Honor.

8 Q. Detective Brown, going back to the interview that
9 you did with Mr. Democker the early morning hours of the 3rd,
10 do you remember having a conversation with Detective Sergeant
11 Huante outside the interview room, which was recorded on
12 tape, where Detective Sergeant Huante, talking about
13 Mr. Democker, said "He thinks he's so smart"?

14 A. I recall reading that in the transcript, yes.

15 Q. Do you remember hearing that? Did you ever listen
16 to the audio tape?

17 A. Yes, I did.

18 Q. It's on the audio tape, too; isn't it?

19 A. Correct. It's in the transcript from it.

20 Q. Do you remember Detective Huante saying that?

21 A. I remember reading it. I don't remember at the
22 time.

23 Q. That was not very long into the interview, was it?

24 A. Define "long," I guess.

25 Q. It was less than an hour into the interview;

1 wasn't it?

2 A. I can check really quick.

3 Q. Sure.

4 A. Okay. I am not finding it at this time. Do you
5 know which transcript it is under?

6 Q. So you have no independent recollection today at
7 what point in the interview --

8 A. I can go through it if you want to give me the
9 time, but I can't recall right now.

10 Q. Well, it's the Court's time here. If you don't
11 remember today, that's fine. But you do remember the
12 conversation?

13 A. Yes, I do.

14 Q. And you remember seeing it someplace in the
15 transcript; is that right?

16 A. Yes.

17 Q. Okay. Now, let's talk about the information that
18 you had developed early on about the financial relationship
19 between the parties.

20 Your understanding was that even though
21 they had been separated for a number of years, they had only
22 recently been divorced; correct?

23 A. That's correct.

24 Q. And you came to understand that their divorce case
25 had been settled here in this building, the courthouse, on

1 the day it was set for trial; correct?

2 A. That's correct.

3 Q. And the parties each had lawyers, and the lawyers
4 participated in settlement discussions in the hallway one
5 floor below us; correct?

6 A. I don't know which floor, but that's correct.

7 Q. And you eventually saw a copy of the divorce
8 decree; is that correct?

9 A. That's correct.

10 Q. It had a lot of handwritten changes made to the
11 typed portions; correct?

12 A. That's correct.

13 Q. Talking about this 401-K, part of the settlement
14 between Carol and Steve was that a 401-K that Steve had
15 opened would be transferred to Carol; correct?

16 A. That's correct.

17 Q. Using something called a "QDRO" -- Qualified
18 Domestic Relations Order; correct?

19 A. That's correct.

20 Q. And from that, Carol was to pay the taxes that
21 would be due on it; correct?

22 A. Correct.

23 Q. And that she was then required to pay certain
24 specific joint and community debts from that money; correct?

25 A. It was indicated on the forms, yes.

1 Q. Broken out which debts would be paid; correct?

2 A. That's correct.

3 Q. And then Carol would keep the balance, except that
4 they had agreed that any amount over \$180,000, if the 401-K
5 was worth more than \$180,000, any excess over that would be
6 split evenly between Steve and Carol; correct?

7 A. That's correct.

8 Q. And you came to learn that at the time of the
9 divorce there was about \$197,000 in that 401-K. You learned
10 that; didn't you?

11 A. I don't recall what the actual payout was.

12 Q. Put another way, you have seen, because you looked
13 and identified these e-mails from the July 1/July 2 time
14 frame that Steve said that his half of the overage, over
15 \$180,000 -- it was a little more than \$186,000; correct?

16 A. I can look if you have that evidence item number.

17 Q. Sure. Let's hope they haven't been put away. Let
18 me show you --

19 MR. SEARS: May I approach, your Honor?

20 THE COURT: You may.

21 BY MR. SEARS:

22 Q. Exhibit 119. And the first page of Exhibit 119 is
23 you've identified as an e-mail from Steve to Carol, 11:00 --
24 11:02 p.m. on Tuesday, July 1, with Steve's calculation, that
25 the excess was \$17,367.38; correct?

1 A. That is what he wrote; correct.

2 Q. And half of this amount, by his calculation, was
3 \$8,683.68; correct?

4 A. That's correct.

5 Q. Now Carol made some notes here, apparently, "wrong
6 amount," and went into this explanation of why things were
7 different; correct?

8 A. That's correct.

9 Q. What you actually learned, though, was that
10 although that \$197,000 was actually the balance on the day of
11 the divorce, May 28, 2008, by the time Carol went to
12 liquidate that IRA account after it had been transferred, the
13 value had dropped; correct?

14 A. That's correct.

15 Q. And so now Carol was saying, "Look, we agreed that
16 I would pay half," and the question became half of what
17 number -- half of 17,000, which was the amount in excess of
18 180 on the day of the divorce or half of some smaller number,
19 which was what Carol wanted to pay, which was the amount on
20 the day that she actually cashed it in. That was the
21 dispute, wasn't it?

22 A. I don't know that for sure.

23 Q. Well, what do you know about this?

24 MR. BUTNER: Objection. Vague, ambiguous.

25 MR. SEARS: I'll rephrase.

1 THE COURT: Yeah, I think it implicated, but
2 let's have a direct question.

3 MR. SEARS: Thank you, your Honor. I
4 apologize for the snippiness of the question.

5 MR. BUTNER: Thank you, Mr. Sears.

6 MR. SEARS: I get snippy at the end of the
7 day.

8 Q. Deputy Brown, do you have some understanding about
9 what Carol's position was with respect to what she owed, if
10 anything, to Steve for the excess amount on this 401-K
11 account?

12 A. I just know what she wrote down on this paper.

13 Q. Okay. Can you summarize that without reading all
14 of that out loud?

15 A. She just -- her notes are: "Your assertions are
16 incorrect. Please see attached document which shows a
17 distribution of 186,676.31.

18 And then she has her calculations of the
19 information with the taxes and the half amount and then what
20 different monies that she believes she is owed.

21 Q. So she wanted to settle out even more -- she
22 wanted to pay Steve half of about \$6700 instead of half of
23 about \$17,000; correct?

24 And in addition, not only does she only
25 want to pay half of that number, she wanted to settle off

1 some additional amounts that she claimed she was still owed.
2 Is that what you're saying?

3 A. If you could just ask one question at a time, I
4 will try to answer it.

5 MR. BUTNER: Thank you. That is my objection,
6 also, Judge, plus it misstates what is on the exhibit that he
7 is discussing with this witness.

8 THE COURT: Rephrase, please.

9 MR. SEARS: I can do that.

10 Q. Your understanding from the first page of the
11 exhibit in the left hand there is that Steve's position was
12 pretty simple. He said that the overage was a little more
13 than 17, you owe me half of that number; correct?

14 A. That is what is written here. Correct.

15 Q. Carol's position, as reflected in several
16 additional pages of 119 is different; isn't it?

17 A. That's correct.

18 Q. Her position is the overage is not 17,000. It's
19 \$6700; correct?

20 MR. BUTNER: Objection, your Honor. Her
21 position is set forth in the documents. If he is asking the
22 detective to try and figure out what her position is from
23 those documents, I say that's irrelevant. I'm not sure what
24 he's asking, but her position is already set forth in these
25 documents, and that's the best evidence concerning her

1 position.

2 THE COURT: May I?

3 MR. SEARS: They offered the exhibit, your
4 Honor.

5 THE COURT: What page are you referring to,
6 Mr. Sears -- the second?

7 MR. SEARS: It would be the first page is
8 Mr. Democker's position. It's the subsequent pages with her
9 handwritten notes on it. Might be the second or maybe third
10 page down from the top.

11 THE COURT: Third.

12 MR. SEARS: I think that is right.

13 MR. BUTNER: Judge, if I might, though, I
14 would refer you to Bates No. 6345, which is about the one,
15 two, three, four -- fifth page down, which seems to have a
16 more complete summary of what she thinks her position is.

17 THE COURT: I think the exhibit -- I will
18 refer to Bates Nos. 6343, 6344, 6345. I think the exhibit
19 does speak for itself with regard to that, but I will refer
20 to it.

21 MR. SEARS: Thank you, Your Honor.

22 MR. BUTNER: Thank you, Your Honor.

23 BY MR. SEARS:

24 Q. Deputy, the point of this is, though, is that the
25 two of them had competing positions on the same issue. Steve

1 thought he was owed more money than Carol thought she owed
2 him; correct?

3 A. That's correct.

4 Q. So they had communication about that over the last
5 couple of days of her life; correct?

6 A. Apparently, yes.

7 Q. And at the same time, there was discussion about
8 the impending first alimony payment of \$6,000; correct?

9 A. No, that would be incorrect.

10 Q. Let's look at the first page, if we could, of
11 Exhibit 119.

12 MR. SEARS: Did we give it back to the
13 witness?

14 THE COURT: Yes. It's right there.

15 BY MR. SEARS:

16 Q. I call your attention to the third paragraph from
17 this e-mail from Steve. "I owe you \$6,000 in spousal support
18 and you owe me half of the excess amounts back."

19 That's a discussion of alimony; isn't it?

20 A. Correct. You are incorrect with the first spousal
21 support payment.

22 Q. Actually, the decree said it was due June 1;
23 correct?

24 A. That's correct.

25 Q. You have not seen one piece of communication

1 between the parties where Carol took the position that she
2 was owed spousal payments on June. And in fact, all of the
3 discussions were aimed at July 1; weren't they? Let me put
4 the question more directly.

5 Have you ever seen anything in writing
6 from anyone connected in this case -- Carol, Mr. Casalena,
7 Carol's divorce lawyer, Judge Mackey, anyone else --
8 suggesting that Steve was already a month behind on his
9 alimony payments by July 1?

10 A. No. I believe, from the records, he made the
11 June 1st payment.

12 Q. What records?

13 A. I am going off my memory. I believe it was in the
14 bank record.

15 Q. Okay. What Mr. Democker was saying in these
16 communications, in essence, was we need to exchange checks.
17 You need to pay me the \$8600, and I will give you a check for
18 \$6,000 for spousal maintenance. That's what he said;
19 correct?

20 A. That's what's indicated in this e-mail. Correct.

21 Q. That's what this -- when you talk about exchanging
22 checks, that's what Mr. Democker intended; right?

23 A. That's correct.

24 Q. And Carol was resisting that, saying she wanted
25 the \$6,000 alimony, and she wanted to pay him significantly

1 less than \$8600; correct?

2 MR. BUTNER: Objection. I don't think that
3 that accurately sets forth her position, Judge, and her
4 position is set forth in the documents.

5 THE COURT: Sustained.

6 MR. BUTNER: Thank you.

7 BY MR. SEARS:

8 Q. On the day that Carol Kennedy died, she had more
9 than \$200,000 in the bank; didn't she?

10 A. I don't recall what the numbers were there in the
11 bank.

12 Q. She had gotten the check, the QDRO check, and
13 deposited it into her account; correct?

14 A. Not that day. I believe it was deposited at an
15 earlier time.

16 Q. A few days before she died; correct?

17 A. I believe so, yes.

18 Q. Did you look at Mr. Democker's bank account to see
19 if he had \$6,000 in his bank account on July 2nd?

20 A. On July 2nd did I look at his bank account? No,
21 sir.

22 Q. Did you ever look to see that if on July 2nd he
23 had enough money in his bank account to pay Carol spousal
24 maintenance?

25 A. I have seen the bank records. I don't recall the

1 amounts, though.

2 Q. We have heard, through the course of this case,
3 evidence suggesting, from witnesses and documents, that from
4 time to time, depending on who she was speaking with or
5 corresponding with, Carol expressed dissatisfaction with the
6 settlement of her divorce case. That is your understanding;
7 correct?

8 A. That's correct.

9 Q. By contrast, there is no such record of any
10 complaint of Mr. Democker to anyone complaining about his
11 settlement. Mr. Democker wasn't upset, was he?

12 A. I personally have not seen any e-mail
13 correspondence or anything like that.

14 Q. Or talked to a single person that said that
15 Mr. Democker went and complained in the way that Carol did --
16 to Cynthia Wallace, among other people -- about her divorce
17 settlement. Mr. Democker wasn't doing that, was he?

18 A. Complaining?

19 Q. Yes.

20 A. I don't recall any complaints.

21 Q. And in fact, Mr. Democker had proposed a
22 settlement that included spousal maintenance payments
23 sometime before the divorce that were about what the
24 settlement turned out to be. He had offered that before, and
25 they were rejected; correct?

1 A. I don't know if it was exact as what was decided
2 that day, but -- I don't know the exact payments, no.

3 Q. Mr. Democker and his attorney signed the
4 settlement agreement in which Mr. Democker agreed to pay this
5 amount of money; correct?

6 A. The final agreement?

7 Q. Yes.

8 A. It was signed, yes.

9 Q. Do you have any evidence that suggests that
10 Mr. Democker knew at that time that he would never be able to
11 pay the sums owed to Carol?

12 A. I am not sure if I understand your question. I
13 apologize.

14 Q. Do you have any evidence whatsoever to suggest
15 that on May 28, 2008, Mr. Democker, as he was signing the
16 divorce settlement, knew that he could not afford to pay
17 Carol the money that it called for him to pay?

18 A. That he could not afford, I have no indication.

19 Q. In fact, Mr. Democker was employed and making very
20 good money at that time; correct?

21 A. That's correct.

22 Q. And Mr. Democker, although he had and Carol had
23 considerable debt, appeared, at least at the time, to have
24 significant earning potential in the future; correct?

25 A. That would be correct.

1 Q. And at the time, going back to May of 2008, there
2 was no indication that you found that Mr. Democker would not
3 be able to continue to make a good living in Prescott,
4 Arizona, in the future; correct?

5 A. If things stand as they would, he was making a
6 good future or had the ability to make a future.

7 Q. You were aware that on the Saturday before Carol
8 died, that the two children, Mr. Democker, and Miss Kennedy
9 all went to the airport in Phoenix to see Katie off to
10 Africa; correct?

11 A. I was aware of that eventually, but I am not sure
12 when I learned about that first. Yes.

13 Q. In your work on this case, you became aware of
14 that; right?

15 A. That's correct, sir.

16 Q. And you have no indication from what you heard
17 about that, that that was an ugly or unpleasant scene;
18 correct?

19 A. I would say there is indication to show other than
20 that.

21 Q. And in fact, the evidence in this case was that
22 there was no angry or ugly interaction between them --
23 between them -- between Mr. Democker and Ms. Kennedy that
24 day; correct?

25 A. I don't recall those words, but things went fine,

1 I remember.

2 Q. You found in your investigation no history of
3 domestic violence or even a threat of domestic violence
4 between Mr. Democker and Ms. Kennedy in the entire course of
5 the relationship; correct?

6 A. There were statements made that something
7 happened. There is no reports of anything.

8 Q. That came from Mr. Knapp; didn't it?

9 A. That's correct.

10 Q. Mr. Knapp is deceased; correct?

11 A. That's correct, sir.

12 Q. You found no independent corroboration from
13 anybody, including the Democker children, Carol's best
14 friends, Carol's mother -- anyone else to corroborate what
15 Mr. Knapp said; correct?

16 A. That's correct.

17 Q. Would you agree that Mr. Democker was better off
18 financially after the divorce settlement than before?

19 MR. BUTNER: Objection. Calls for speculation
20 on the part of this witness and beyond his field of
21 expertise, your Honor. I would ask for voir dire on that.

22 THE COURT: I think you can rephrase the
23 question, Mr. Sears.

24 MR. SEARS: Okay.

25 Q. In your role as case agent, at the beginning

1 portion of this investigation you came to understand much
2 about the Demockers' financial position prior to July 2nd,
3 2008; correct?

4 A. I would say that's correct.

5 Q. And you also came to understand much about their
6 financial situation over the four or five years preceding the
7 divorce settlement; correct?

8 A. I have seen a lot. I am not -- I don't know if I
9 have a good understanding of it, but I have seen a lot of the
10 information.

11 Q. My understanding is that one of the allegations in
12 this case against Mr. Democker that supports the State's
13 claim that this is a death penalty case, is that
14 Mr. Democker simply killed Carol for financial gain. Do you
15 understand that?

16 A. Yes.

17 Q. And my question, then, is: Wasn't Mr. Democker
18 better off financially after the divorce than before it?

19 A. I would say no.

20 Q. Mr. Democker had paid something like \$15,000 per
21 month for the support of Carol and the children for a number
22 of years prior to the temporary orders in the Spring of 2007;
23 isn't that your understanding?

24 A. That's correct.

25 Q. And then after the divorce, his financial

1 obligation to Carol consisted of \$6,000 a month in alimony;
2 correct?

3 A. That's correct.

4 Q. And you would agree that 6,000 is less than
5 15,000?

6 A. I agree that 6,000 is less than 15,000?

7 Q. Yes.

8 A. Yes, 6,000 is less than 15,000.

9 Q. And are you aware that when the \$6,000 payment in
10 the decree was specifically set out as spousal maintenance,
11 that entitled Mr. Democker to a significant tax deduction on
12 his income tax for the alimony he paid?

13 A. Could you repeat the question. I got lost a
14 little bit there. I apologize.

15 (Whereupon, the relevant portion was read back.)

16 THE WITNESS: Yes, I knew there was a
17 deduction for the alimony payment.

18 BY MR. SEARS:

19 Q. So the actual cost to Mr. Democker in real dollars
20 for that \$6,000 was something significantly less than that,
21 if you factor in the deduction?

22 MR. BUTNER: Objection. Speculation. Calls
23 for something beyond this witness's field of expertise.

24 THE COURT: If you know, you can answer. If
25 you don't know, you can indicate that.

1 THE WITNESS: I am not sure if you are asking
2 as far as per month. I know once the alimony goes out, he
3 gets some money back. I am not sure what you're asking as
4 far as would that be different than the past. That's what
5 I'm not sure of.

6 BY MR. SEARS:

7 Q. I'm just talking about the \$6,000 he was ordered
8 to pay and that he agreed to pay as part of the divorce
9 settlement. The actual cost to him because of the tax
10 deduction was really less than \$6,000, wasn't it, per month?

11 A. That -- I don't specifically know that.

12 Q. Okay. Let me ask you questions about your
13 contacts with Mr. Knapp.

14 I have some reason to think that you had
15 e-mail contact with Mr. Knapp before he died; is that true?

16 A. There was e-mail correspondence that Mr. Knapp
17 sent me. I am not sure on exact dates or anything, though.

18 Q. Are there any e-mails that Mr. Knapp sent you that
19 you received that have not been put into evidence in this
20 case?

21 A. I was asked about that. I am not sure. I need to
22 go back and see if I've submitted all of them. I thought I
23 had.

24 Q. When were you asked?

25 A. What's that?

1 Q. When were you asked that and by whom?

2 A. Just recently by Detective McDormett. When I say
3 "recently," the last couple of months.

4 Q. And so there may be e-mails between Knapp and you
5 that you haven't put into evidence?

6 A. There may be.

7 Q. The other topic, apparently, in these text
8 messages and e-mails the last day or two of Carol's life,
9 between Steve and Carol, had to do with Katie's car; is that
10 right?

11 A. I don't know if there were e-mails referencing the
12 car.

13 Q. How about text messages?

14 A. There was text messages, yes.

15 Q. Okay. And your understanding was that Steve was
16 suggesting that maybe he would come out and take possession
17 of Katie's car while she was out of the country; correct?

18 A. He was requesting to come out, yes.

19 Q. And Carol didn't oppose that; correct?

20 A. That's correct.

21 Q. Carol just wanted to know when he was coming for
22 it; correct?

23 A. That's correct.

24 Q. Did you ask Mr. Democker about that?

25 A. About the text messages?

1 Q. Yes.

2 A. Yes.

3 Q. Mr. Democker told that you it turned out that
4 there wasn't a really good reason for him to take the car
5 because he didn't really have a place to keep it?

6 A. I don't recall him telling me that.

7 Q. What did he tell you?

8 A. I can go through that exactly to see.

9 What I recall, if you want me to just go
10 from my recollection was he decided not to -- I don't know if
11 there was a reason -- that he was going to possibly have
12 Sharlot pick it up.

13 Q. But that wasn't -- apparently, the picking up of
14 this car wasn't a point of dispute between Carol and Steve;
15 am I correct?

16 A. It was a text message back and forth. A dispute,
17 I am not sure. There was nothing indicating that she said
18 no, you cannot take it.

19 Q. That's what I mean.

20 A. That's correct.

21 Q. She wasn't opposing?

22 A. That's correct.

23 Q. She just wanted to know when?

24 A. That's correct.

25 Q. Did Mr. Democker tell you that, on the night of

1 July 2nd, he was intending to go over and get Katie's car?

2 A. His text messages indicate that.

3 Q. Now, he -- apparently, he told you that he drove
4 his car out to the area where he parked it before his bicycle
5 ride; correct?

6 A. That is what he told me. Correct.

7 Q. Did he offer any explanation about how he was
8 going to get his car and Katie's car back to his house?

9 A. I don't know.

10 Q. Are you sure that he told you that he was -- did
11 he tell you he was going to pick up Katie's car, or was that
12 in a text message?

13 A. I think he indicated that he was planning on -- or
14 he had talked about picking up the car. I don't think he
15 said "I went out there to pick up the car."

16 Q. He said that to you, or that is in a text message?

17 A. He told me that he, through the text message, that
18 he was planning on going to pick up the car. I don't recall
19 him ever saying that he went out to pick up the car.

20 Q. In fact, Carol never responded to his specific
21 suggestion that he would come and get the car; did she?

22 A. No, that is incorrect.

23 Q. What did she say? Do you have the text messages
24 handy?

25 A. I have a thing to help me with it. I don't have

1 the actual text messages.

2 Q. Sure. That would be good. Whatever you have.

3 A. Would you like me to go through each text message
4 so we know where they are coming from?

5 Q. Sure. How many are there?

6 A. There aren't that many.

7 Q. That's fine.

8 A. At 0759 hours, a text message from Steven --
9 Mr. Democker, I apologize -- "I need to pick up the X3. When
10 and how can I get the keys?"

11 Q. What date and time was that?

12 A. July 2nd, 0759 hours.

13 Q. Early in the morning?

14 A. Correct.

15 Q. Okay.

16 A. At 1342 hours, a message from Steven: "Can you
17 give me the courtesy of a response to my question about
18 picking up the X3 or my e-mail about exchanging checks."

19 Q. Okay.

20 A. At 1315 --

21 Q. Let's stop for a minute. The e-mails about
22 exchanging checks would be the one from 11:02 the night
23 before?

24 A. I am assuming that, yes.

25 Q. And the text would have been the one from 7:05 in

1 the morning about picking up the X3; correct?

2 A. 7:59 in the morning.

3 Q. Okay. So a little before 2:00 in the afternoon,
4 he says are you going to answer me about either one of these;
5 correct?

6 A. That's correct.

7 Q. Okay.

8 A. A message at 1355 hours from Carol to Steven --
9 Mr. Democker: "You may come out to pick up Katie's car this
10 evening if you'd like. I assume you have the spare key and
11 that hers are in it. I have not had time or a computer to
12 see e-mail today. Will read it when I get home after 5:00.
13 Is it time sensitive or about Katie's car?"

14 Q. Okay.

15 A. A text message at 1357 hours from Carol: "My cell
16 is dying, won't hold a charge anymore."

17 Text message from Mr. Democker at 1401
18 hours: "It's about the fact that we each owe the other a
19 pile of money today. Is there another e-mail address to
20 which you'd like a copy sent?"

21 Message from Carol at 1906 hours to
22 Mr. Democker: "The key is in the car in the garage. You
23 never replied to let me know if you were coming to get it."

24 Q. Let me just interrupt that. That message from
25 Carol would have been after you believe Mr. Democker's phone

1 was powered down; correct?

2 A. That would be correct.

3 Q. In fact, that was a message that came in when his
4 phone was powered back up at 10:08 that night -- that was one
5 of the messages that showed up on his phone; correct?

6 A. That's correct.

7 Q. And you saw his phone. He showed you his phone,
8 and that message was on his phone showing that he had opened
9 it at 10:08; correct?

10 A. I don't recall if that exact message was on his
11 phone. He didn't have all of his messages that were saved.
12 It was definitely on her phone, though.

13 Q. Okay.

14 A. At 1927 hours from Carol to Mr. Democker: "I also
15 need the DHL shipping info, if they got it for you today."

16 And I believe that is all.

17 Q. And again, that last message would have also been
18 sent out by Carol to Steve when you believe Steve's phone was
19 powered down; correct?

20 A. That's correct.

21 Q. Did you see that message on Steve's phone that
22 night?

23 A. Again, I don't recall that one specifically.

24 Q. So one way to look at this would be that the
25 question of whether Steve was going to come out and pick up

1 Katie's car was just left hanging.

2 A. He asked to go pick it up, and she said come and
3 get it.

4 Q. And then it just never happened?

5 A. It didn't happen. Correct. The car was still
6 there.

7 Q. When you got to the scene, Katie's car was in the
8 garage where Carol said it was, correct, with the keys in it.

9 A. The keys were in the cup holder.

10 Q. And so that I understand, though, that text
11 message from Carol about the keys being in the car was among
12 the ones that Mr. Democker told you he didn't receive until
13 he put a new battery in his phone after ten o'clock that
14 night; correct?

15 A. That would be incorrect.

16 Q. Is there any indication that Mr. Democker received
17 the one that said the keys were in the car?

18 A. His phone was still powered on at 1355 hours.

19 Q. So did he ever answer that?

20 A. I have no idea.

21 Q. You haven't seen any text message or e-mail or
22 telephone call from Mr. Democker after that time dealing with
23 that subject; correct?

24 A. Hold on. He sent a message after that message
25 would have been received.

1 Q. In the same way?

2 A. It's about the fact that "We owe each other a pile
3 of money today. Is there another e-mail address to which you
4 would like a copy sent?"

5 Q. Doesn't include anything about the car?

6 A. That text message does not indicate anything about
7 the car.

8 Q. There is not another message from Mr. Democker
9 that night to Carol about the car; correct?

10 A. That's correct.

11 THE COURT: I don't know how much more you
12 have to go. My staff has been going for a while. I think I
13 need to take a ten-minute break.

14 MR. SEARS: That's always a good idea. Thank
15 you.

16 (Brief Recess.)

17 THE COURT: Record reflects the presence of
18 the defendant, both his counsel, Mr. Butner, Detective Brown.

19 You may proceed.

20 CROSS-EXAMINATION RESUMED

21 BY MR. SEARS:

22 Q. Going back to what you told us here earlier this
23 afternoon about this crime scene diagram, I am curious about
24 that. You said that you made the diagram on your computer?

25 A. Made from the computer, yes.

1 Q. And you made it from notes that you had?

2 A. That's correct.

3 Q. Were those notes previously put into evidence in
4 this case?

5 A. No, they were not.

6 Q. Where are those notes now?

7 A. They were in evidence.

8 Q. When were they put in evidence?

9 A. I can look at the date if you would like me to.

10 Q. About how long ago? Days? Weeks? Months?

11 A. Months, I would say.

12 Q. Several months?

13 A. I can look at the date. I don't recall.

14 Q. After June 22nd?

15 A. Let me look, and I can tell you that.

16 Q. Please.

17 A. (Whereupon, the witness reviews a document.)

18 June 19.

19 Q. Sorry?

20 A. June 19.

21 Q. June 19th of this year?

22 A. Yes, sir.

23 Q. Do you have those notes with you?

24 A. No, sir.

25 Q. Do you have your crime scene diagram with you?

1 A. No, I do not.

2 Q. Can you tell when the crime scene diagram was
3 prepared and put into evidence?

4 A. Yes, sir.

5 Q. Was it after the notes?

6 A. The same day.

7 Q. The same day.

8 Can you tell us here today where
9 Mr. Democker parked his car on the night of July 2nd, 2008?

10 A. I can tell you where he told me he parked his car.

11 Q. Do you have any reason to disbelieve him?

12 A. I have no way of proving it.

13 Q. What was Mr. Democker wearing that evening?

14 A. I can tell you what he told me he was wearing that
15 evening.

16 Q. Do you have any different information?

17 A. No.

18 Q. Your theory is that Mr. Democker rode his bike to
19 a point in the open land to the east of the residence; is
20 that right?

21 A. My theory is -- I'm sorry. Go ahead.

22 Q. Mr. Democker, at some point on July 2nd, rode his
23 bicycle through the gate at Glenshandra and across the open
24 land to a point somewhere to the east of the Kennedy
25 residence?

1 A. I can tell you there were bike tracks found at the
2 gate of Glenshandra to a positioning.

3 Q. I want to know whether your theory that you adopt
4 is that Mr. Democker made those bike tracks?

5 A. That would be bike tracks are common with his --
6 there are similar -- I should use the word "similar" with the
7 tread patterns on his.

8 Q. If Mr. Democker rode his bike to that point, how
9 did he get to the house without leaving footprints?

10 A. There were shoe tracks from the location of the
11 bike tracks that went directly to the house.

12 Q. Matching no shoe associated with Mr. Democker;
13 correct?

14 A. That's correct.

15 Q. In fact, Mr. Democker told you that he was wearing
16 bike shoes with clipless pedals on them; correct?

17 A. That's what he told us. Correct.

18 Q. And you didn't find any footprint in that area --
19 when I say "you," the police -- that looked in any way like a
20 bike shoe print with a clipless pedal impression on it;
21 correct?

22 A. That's correct.

23 Q. My question is: How did Mr. Democker get from the
24 point where the bicycle track ends to the house?

25 A. If you will, the shoe tracks that would be walked

1 to that point.

2 Q. But you found no footprints associated with him
3 that would demonstrate that he walked from that point to the
4 house; right?

5 A. No, we found no shoes that matched those shoe
6 tracks.

7 Q. So the answer is: You don't know how he got to
8 the house; correct?

9 A. He could have walked on that track.

10 Q. And not made tracks?

11 A. No, there are shoe tracks there.

12 Q. Wearing shoes that you never found?

13 A. Shoes that we have not located, correct.

14 Q. They could be out in the pile with the golf club
15 and his clothes and everything else?

16 A. Could be.

17 Q. Okay. Since your testimony in the Simpson hearing
18 earlier in this case, Detective Brown, are you aware of any
19 new fact or information that would support the pecuniary gain
20 capital aggravator in this case?

21 A. The financial gain? Is that what you are asking
22 about?

23 Q. Yes.

24 A. I don't know much of the financial information,
25 so --

1 Q. My question was -- one of the aggravators in this
2 case that the State has alleged in support of its claim that
3 this is a capital case, is that the murder was committed for
4 pecuniary gain. You told me you know that; correct?

5 A. Yes.

6 Q. My question to you is: Do you personally have any
7 information about any new evidence of pecuniary gain in this
8 case since you testified in the Simpson hearing?

9 A. I overheard things. I don't know the details,
10 though.

11 Q. So you personally don't have any information?

12 A. That's correct.

13 Q. Changing gears completely, going back to the
14 photographs that we have looked at of the crime scene this
15 afternoon. Your belief is that the ladder was placed in this
16 scene as part of some staging; is that right?

17 A. I believe the ladder was positioned in the
18 location I found it after the events took place.

19 Q. And to you that indicates staging?

20 A. Yes.

21 Q. Where was the ladder before it was placed in the
22 location shown in the photograph?

23 A. I have no idea.

24 Q. Is it not possible that the ladder was simply in a
25 corner of the room where it normally would be found where the

1 hooks to the top of the ladder match the area by the loft?
2 You know what I am talking about? There was a loft in that
3 room where the body was found.

4 A. I know the area you are talking about, yes.

5 Q. And do you see that the ladder was clearly made to
6 access that loft?

7 A. That's correct.

8 Q. It's possible, isn't it, that the ladder was over
9 in the corner where access to the loft would normally be made
10 and was knocked over at some point by somebody in that room
11 after the blood spatter against the door frame and the tubs
12 and the items on the floor was laid down?

13 A. It's -- the ladder came in that position somehow
14 after the blood spatter. How, I have no idea.

15 Q. So the idea that it was placed there to stage the
16 scene to look like an accident is one theory; correct?

17 A. Correct.

18 Q. And another theory is that it was simply knocked
19 over and came into that position after the blood had been
20 deposited; correct?

21 A. That could be a theory; correct.

22 Q. Now, actually, it was Lieutenant Rhodes {phonetic
23 spelling} that first noticed the blood spatter on the
24 bookshelf that didn't seem quite right; correct?

25 A. I don't know if he was the first person. He was

1 the person that indicated it to me.

2 Q. You don't have any expertise or training in blood
3 spatter evidence or analysis, do you?

4 A. Expertise, no.

5 Q. And you have no idea how long, for example, it
6 takes that quantity of blood to dry when it is deposited on a
7 hot summer evening in July in Prescott, Arizona?

8 A. I have no idea of the time.

9 Q. Is it that the blood spatter changed direction --
10 it started to go in one direction and then it changed
11 direction on the bookshelf? Is that what you are saying?

12 A. I can explain the way I see it, if you would like
13 me to.

14 Q. Tell me what you saw.

15 A. What I saw?

16 Q. Yes.

17 A. What I saw was a bookshelf that was not upright,
18 so it's off to the side.

19 Q. Yes.

20 A. And a run that went parallel with the bookshelf
21 but wouldn't be consistent with the bookshelf being in the
22 position where I found it or I saw it.

23 Q. It would have been consistent with the bookshelf
24 if the bookshelf were upright; correct?

25 A. That's correct.

1 Q. But the bookshelf was knocked over when you saw
2 it; correct?

3 A. When I saw it, it was already over.

4 Q. And so is it possible that the blood hit the
5 bookshelf, dried, and then the bookshelf was knocked over
6 sometime later?

7 A. I would say that would be possible, yes.

8 Q. Sure. Now, the bookshelf wasn't just pushed over,
9 was it?

10 A. I don't know if it was pushed over or not.

11 Q. In fact, the bookshelf -- one bookshelf, the one
12 nearest the -- get the directions right -- here's the south
13 wall, the wall with the door to the hallway. The bookshelf
14 that was nearest that was pushed into the other bookshelf
15 with such force that the top shelf of the bookshelf was
16 ripped off. Did you see that?

17 A. I recall just -- I don't know if it was ripped off
18 during that impact, but the bookshelf wasn't -- it was --
19 what's the word -- at an angle. I don't know how to say it.

20 Q. When I saw the bookshelves for the first time,
21 they had been put upright.

22 Do you remember the police setting them
23 upright?

24 A. No, I don't recall that.

25 Q. When I saw them, the top shelf of one bookshelf

1 had been broken off. Now, when I say "broken off," not just
2 popped loose, but a piece of the veneer on that bookshelf was
3 torn out, exposing the wood core.

4 Is that what you saw?

5 A. I recall seeing a chunk of the bookshelf being
6 torn out, yes.

7 Q. And when I saw it, that top shelf of the first
8 bookshelf was actually resting on a shelf on the second
9 bookshelf. It had come all the way off and landed inside the
10 other bookshelf.

11 Did you see that?

12 A. I would not have seen what you saw if you saw them
13 upright.

14 Q. When the first bookshelf hit the second bookshelf,
15 that second bookshelf then fell against the wall, the east
16 wall; correct?

17 A. I believe it was the east and possibly part of the
18 section of the wall.

19 Q. And in fact, when I was there, Mr. Robertson, who
20 works with us, pointed out that there was a gouge in the east
21 wall, and that when you took the bookshelf and laid it back
22 down, the core of that bookshelf lined up with that gouge.

23 Did you see the gouge in the wall?

24 A. Yes, sir.

25 Q. That would indicate to you that that bookshelf

1 fell against the wall with some force; correct?

2 A. In the pictures you can see the one bookshelf
3 against the other bookshelf, and the other bookshelf against
4 the wall. So it's indicated in the pictures.

5 Q. So those bookshelves were not just laid in that
6 position. Apparently, they were pushed with force by
7 somebody or something; correct?

8 A. I don't know if I can say they were "pushed." I
9 can say one struck the other and the other one struck the
10 wall.

11 Q. Those bookshelves could have been knocked over by
12 whoever did this; correct?

13 A. Correct.

14 Q. In their haste to get out of the room; is that
15 right?

16 A. I am not sure how it is possible, yes.

17 Q. Okay. Now, do you have information about how the
18 person who did this, or persons who did this, left the scene?
19 How did they get out of the house?

20 A. There is different exits of the house. I am not
21 sure which exit the person left.

22 Q. Where did they go when they left the house?

23 A. From the shoe tracks -- what I was told of the
24 shoe tracks and what I heard about shoe tracks, they left
25 from the same area where they came over the fence and back to

1 where the tire tracks were.

2 Q. Shoe tracks that match no shoe associated with
3 Mr. Democker; correct?

4 A. That's correct.

5 Q. Not bicycle shoe tracks. Not bicycle shoe tracks
6 either.

7 A. The clipless kind, that's correct.

8 Q. Didn't see those leaving either; correct?

9 A. That's correct.

10 Q. And the tracks that you did see went to this old
11 barbed-wire fence on the east side of the property; correct?

12 A. That's correct.

13 Q. Did you know if Mr. Democker -- Mr. Democker built
14 this house. Did you know that?

15 A. I don't know if he personally built it. He had it
16 built.

17 Q. Did you see later on the climbing gate that was on
18 that same fence lying down by the horse corrals?

19 A. Yes, sir.

20 Q. Do you know that Mr. Democker built that?

21 A. I think I saw a correspondence in reference that,
22 yes.

23 Q. But the theory is that whoever did this went out
24 and jumped over the barbed-wire fence?

25 A. There was foot tracks or shoe tracks that went to

1 the barbed-wire fence and the shoe tracks that left the
2 barbed-wire fence.

3 Q. So the suggestion is that Mr. Democker, who knows
4 this house, having lived there and built it, rather than
5 going over the gate that he built, jumped the fence?

6 A. That would be correct.

7 Q. I think you testified yesterday about efforts to
8 determine the source of some DNA evidence, and I thought you
9 said that one of the samples -- the sample from the
10 fingernail clippings was run through the CODIS automated
11 system; is that right?

12 A. That's correct.

13 Q. It was actually just run through the Arizona
14 profile part of the CODIS system; right?

15 A. I don't know. I just recall it saying CODIS
16 system.

17 Q. Did you ever see any indication that a national
18 search was done on that item?

19 A. I do not know what D.P.S. -- if that CODIS
20 indication is national or just Arizona.

21 Q. When was the last time you actually did any
22 investigation on this case?

23 A. I did some interviews, I think, back up until June
24 of this year.

25 Q. And nothing since then? No new work since then?

1 A. Not that I recall, no.

2 MR. SEARS: That's all I have.

3 Thank you, your Honor.

4 THE COURT: Redirect?

5 REDIRECT EXAMINATION

6 BY MR. BUTNER:

7 Q. Detective Brown, you are not a financial expert,
8 are you?

9 A. No, sir.

10 Q. You don't have any special training in examining
11 financial statements?

12 A. No, sir.

13 Q. Do you have any special training in taxation laws
14 arising out of qualified domestic relations orders?

15 A. No, sir.

16 Q. You don't really know about that field of
17 expertise; right?

18 A. I didn't know what a QDRO was until this case.

19 Q. You did know, though, that people who pay spousal
20 maintenance are allowed to deduct it, I take it?

21 A. I know you can make deductions. I am not sure why
22 or the reasons.

23 Q. Okay. In regard to the bicycle tracks on the
24 trail over on the opposite side of Williamson Valley Road
25 from where the Bridle Path residence is located, did you go

1 over to -- I said "bicycle tracks." I meant "bicycle
2 trails."

3 Did you go over to the bicycle trails on
4 the opposite side of Williamson Valley Road from the Bridle
5 Path residence?

6 A. Yes, sir.

7 Q. When was the first time that you went over there?

8 A. The morning -- to the location, the morning of
9 July 3rd, 2008.

10 Q. When you went over there on the morning of July
11 the 3rd, had you been provided with information by
12 Mr. Democker as to where he said he was riding his bike?

13 A. Yes, sir.

14 Q. And basically, what did he tell you?

15 A. He indicated that that morning that he road the
16 trail from Love Lane to the Granite Mountain area, I believe.

17 Q. And he said he parked his car on a street -- a
18 specific street; right?

19 A. That's correct.

20 Q. What street was that?

21 A. Rainmaker.

22 Q. And did you find Rainmaker Street?

23 A. Yes.

24 Q. And did you find it that morning when you were
25 looking?

1 A. No, I did not look for it that morning.

2 Q. Okay. What were you looking for that morning on
3 July the 3rd?

4 A. The trail at the end of Love Lane.

5 Q. And were you able to find the trail at the end of
6 Love Lane that morning?

7 A. No, I was not.

8 Q. Ultimately, did you find a trail?

9 A. Yes.

10 Q. And was it a bicycle trail?

11 A. From that section, it is not indicated what it is.
12 It's -- from the other direction it shows bicycle, horse, and
13 hiking.

14 Q. And when you say "from the other direction," what
15 direction is that?

16 A. That would be from the west going east.

17 Q. Is there -- is that Williamson Valley trail head
18 area?

19 A. No. That is not -- I think it's called the
20 Williamson Valley Trail, which is No. 347.

21 Q. That is the other direction you are talking about?

22 A. Yes.

23 Q. And that's where you got on that trail?

24 A. That is where I found the trail to Love Lane.

25 Correct.

1 Q. Okay. And did you get on that trail?

2 A. Yes.

3 Q. And how were you on it? Were you on a bike or
4 were you walking or what?

5 A. The first time, I was walking.

6 Q. And you walked from that direction, apparently the
7 opposite direction that Mr. Democker was traveling; is that
8 correct?

9 A. Opposite direction from where he would have
10 started. That would be correct.

11 Q. When you say the opposite direction from which he
12 would have started, explain what you mean by that.

13 A. From what he stated that he did that morning is he
14 stated that he parked up on Rainmaker, rode down to the trail
15 at the end of Love Lane, and then went out of lane towards
16 the Granite Mountain trail system.

17 I hiked from the Williamson Valley trail
18 head to the intersection of Trail 347 and Trail 309, which is
19 the trail to the end of Love Lane, and I hiked to the
20 starting point at Love Lane.

21 Q. And is it -- from where Mr. Democker said he
22 parked, is it downhill to the start of that trail, or is it
23 uphill?

24 A. It would be downhill.

25 Q. And is it paved to the start of that trail?

1 A. A section is paved, and then a section is loose
2 rock.

3 Q. What section is loose rock?

4 A. The last portion. It goes from Rainmaker to a
5 street I can't think of right now. And there is a little
6 court or cul-de-sac section, and there is a section that's
7 indicated it's a private road, and that section is loose
8 rock.

9 Q. It's kind of hard to find this trail; right?

10 A. Yeah. I couldn't locate it that morning, correct.

11 Q. And what day did you ultimately locate it?

12 A. On the 13th of July.

13 Q. And when you went down there, did you have to go
14 on the private property in order to get onto the trail that
15 he was talking about?

16 A. I don't know where the actual borders are. It
17 appeared to be private property, but I don't know if it is
18 private property at that section.

19 Q. Okay. Would you describe how you got onto the
20 trail from the loose rock portion of roadway.

21 A. That section of Love Lane goes to -- I think it is
22 dirt from that whole area and then loose rock at the end.
23 There is a residence -- if you are kind of at the end point
24 of that road, there is a residence to the right. There is a
25 little well station, and then a house that is kind of up on

1 the hill, which is actually, I believe, connected to that
2 driveway, the private drive. And then there is a residence
3 to the east.

4 So when you are at that section, you have
5 to walk in between where the pump house is and a fence line
6 for the property here, and there is a little -- I think you
7 would call it a single track, a little stretch that goes to a
8 dry wash. And that is where that trail came out from when I
9 walked it.

10 Q. So does it look like you are going across private
11 property when you go through the dry wash?

12 A. Yes.

13 Q. And the dry wash -- when you got to that trail,
14 Mr. Sears asked you -- basically, he said there's lots of
15 bike tracks in that; right?

16 A. That is what he asked me, correct.

17 Q. And what did you tell him?

18 A. I didn't see any.

19 Q. There weren't any bike tracks there; is that
20 right?

21 A. The day on the 13th I was there, I don't recall
22 seeing any bike tracks. I recall seeing horse-hoof tracks.

23 Q. Does it look like a bicycle track?

24 MR. SEARS: Objection. Foundation.

25 THE COURT: Overruled.

1 THE WITNESS: It's a trail that could be
2 ridden on with a bicycle.

3 BY MR. BUTNER:

4 Q. Does it look like a bicycle trail?

5 MR. SEARS: Objection. Form of the question.
6 What does a bicycle trail look like?

7 THE COURT: Overruled.

8 You may answer.

9 THE WITNESS: I would say it looks like a
10 horse trail.

11 BY MR. BUTNER:

12 Q. And you saw evidence that there were people riding
13 horses along that trail?

14 A. That's correct.

15 Q. What kind of evidence?

16 A. Horse tracks and then horse droppings.

17 Q. And no bicycle tracks whatsoever?

18 A. On that day, I did not see bicycle tracks.

19 Q. Did you encounter any bicycle riders on that
20 trail?

21 A. I encountered bicycle riders on Trail 347.

22 Q. Where is that?

23 A. That is the Williamson Valley connection at the
24 intersection --

25 Q. At the other end?

1 A. Correct.

2 Q. But not down by Love Lane?

3 A. Correct.

4 Q. Not down on the trail that looked like a horse
5 trail?

6 A. That's correct.

7 Q. You were questioned about the search warrant that
8 was served at Mr. Democker's residence looking for shoes;
9 right?

10 A. Correct.

11 Q. And if I understood your testimony correctly --
12 and it was re-emphasized a few times by Mr. Sears -- you
13 found no shoes that matched those tracks out at the -- out by
14 the residence on Bridle Path?

15 A. That's correct.

16 Q. Did you find any bicycle riding shoes, the clip
17 type?

18 A. Yes, those were located. Yes, I did.

19 Q. Did anybody besides Mr. Democker tell you that he
20 was wearing those shoes when he went on his bike ride that
21 evening?

22 A. No.

23 Q. He was the only person; right?

24 A. That's correct.

25 Q. Would you describe those kind of shoes for us,

1 please.

2 A. The shoes that he said he was wearing were red.
3 The -- they have a black sole with a metal -- I want to say
4 it is kind of a triangular portion at the ball of the foot,
5 and that is what clips into the clips for the bike.

6 Q. Are they -- do they look like a running shoe but
7 with a kind of a hard section on them?

8 A. I would say more like a trail shoe with a hard
9 section.

10 Q. Are they hard to walk in?

11 A. I have never walked in clip-style shoes, so I
12 don't know.

13 Q. Okay. I was kind of thinking you were an
14 experienced bicycle rider.

15 A. I don't have clip-style shoes.

16 Q. Okay. You were questioned about a grid-type
17 search in the area out beyond the barbed-wire fence, adjacent
18 to the Bridle Path residence.

19 A. Correct.

20 Q. Were you aware that that type of search took
21 place?

22 A. Yes, I was.

23 Q. You weren't in charge of that search; is that
24 correct?

25 A. That's correct.

1 Q. You indicated that you got on the trail at the
2 opposite end. What was the trail number?

3 A. No. 347.

4 Q. Okay. Was that a trail that Mr. Democker told you
5 he was on?

6 A. He did not give a trail number or a trail name.

7 Q. He said he was on the trail by Love Lane?

8 A. Correct.

9 Q. And does that have a trail number?

10 A. 309.

11 Q. You said you got on that trail, also; right?

12 A. Correct.

13 Q. And from where to where did you walk that trail?

14 A. Once I got to the Love Lane, I guess the starting
15 point, I then walked back to Trail 347, and I took that all
16 the way to the end of that trail, which is -- I think it ends
17 at Katahn Drive or Katahn Street.

18 Q. And how long did it take you to do that?

19 A. An hour and 26 minutes, approximately.

20 Q. Is that farther than Mr. Democker told you he went
21 on his bicycle trip that night?

22 A. He did not give an exact distance or location.

23 Q. Did you go past Rainmaker when you walked that
24 distance?

25 A. Rainmaker is not part of that trail. It's right

1 there at the -- it's near the Love Lane, so yes, you walk
2 past Rainmaker, but it's not part of that trail.

3 Q. Right. You went right by the Rainmaker Street;
4 correct?

5 A. It doesn't cross or anything like that.

6 Q. I know it doesn't cross Rainmaker. Does it go in
7 some kind of proximity to Rainmaker?

8 A. It parallels the section of Rainmaker a while,
9 that's the first, half-mile, and then you are way past it.

10 Q. And Mr. Democker, did he tell you how he got back
11 to his car on Rainmaker?

12 A. He said he walked.

13 Q. And did he give you the route that he walked?

14 A. It would have just been a return route from
15 whatever trail he was on to the end of Love Lane and then up
16 to Rainmaker.

17 Q. Could he have gone across a different direction to
18 get to Rainmaker from that trail?

19 A. Not unless you went off -- completely off trail.

20 Q. Right. If he had gone off trail he could have?

21 A. Correct.

22 Q. Could have walked his bike a shorter distance back
23 to his car?

24 A. You would have to go through brush. It would be
25 more difficult, I would believe.

1 MR. BUTNER: I have no further questions of
2 this witness, Judge.

3 THE COURT: Did you want to excuse Detective
4 Brown or keep him under subpoena?

5 MR. BUTNER: He is excused, Judge.

6 THE COURT: Mr. Sears?

7 MR. SEARS: Can I have a moment, your Honor?

8 THE COURT: Do we have all of the exhibits
9 back, Detective?

10 THE WITNESS: Yes.

11 MR. BUTNER: And Judge, I would like to not
12 begin another witness today.

13 THE COURT: Before I leave Detective Brown,
14 any --

15 MR. SEARS: Our concern, Judge, is that we
16 apparently don't have all of the materials that Deputy Brown
17 had prepared. We are going to, overnight, look through our
18 disclosure to see if we do. I don't believe we do. And I am
19 reluctant to excuse him from the subpoena until I know either
20 that we have them or we're going to get them. So I would ask
21 that we continue under subpoena.

22 THE COURT: Your subpoena continues, Deputy
23 Brown, but we'll have to advise you if and when you need to
24 come back and testify further.

25 MR. SEARS: Thank you, your Honor.

1 THE COURT: Remember that the rule excluding
2 witnesses has been invoked. Don't talk to anybody else about
3 the case, other than the lawyers, in the meantime.

4 MR. SEARS: Thank you, your Honor.

5 THE COURT: You may step down.

6 Not that I have a lot of time today, but
7 there is about 20 minutes before 5:00.

8 How are we looking for whatever other
9 witnesses you have, inclusive of the one that is coming at
10 nine o'clock.

11 MR. BUTNER: I think we are looking good,
12 Judge. I would anticipate that we have no trouble in
13 finishing tomorrow.

14 THE COURT: What time -- you only have until
15 4:00. Let me give you that piece of information, because I
16 have a change of plea at 4:00.

17 MR. BUTNER: I think that my portion -- I have
18 been trying to make a reasonable estimate as to how long I
19 would be with Mr. Echols. I think approximately three hours
20 with Mr. Echols, from the State's side. I would anticipate
21 that the cross-examination would be extensive, as it has been
22 throughout this hearing.

23 THE COURT: If we're only getting through
24 Mr. Echols, are you calling Detective McDormett?

25 MR. BUTNER: I'm not sure that I am going to

1 need to, Judge.

2 THE COURT: All right, then. We will resume
3 at nine o'clock in the morning. See you then.

4 MR. BUTNER: Thank you.

5 MR. SEARS: Thank you.

6 (Whereupon, these proceedings were concluded.)

7 ***o0o***

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

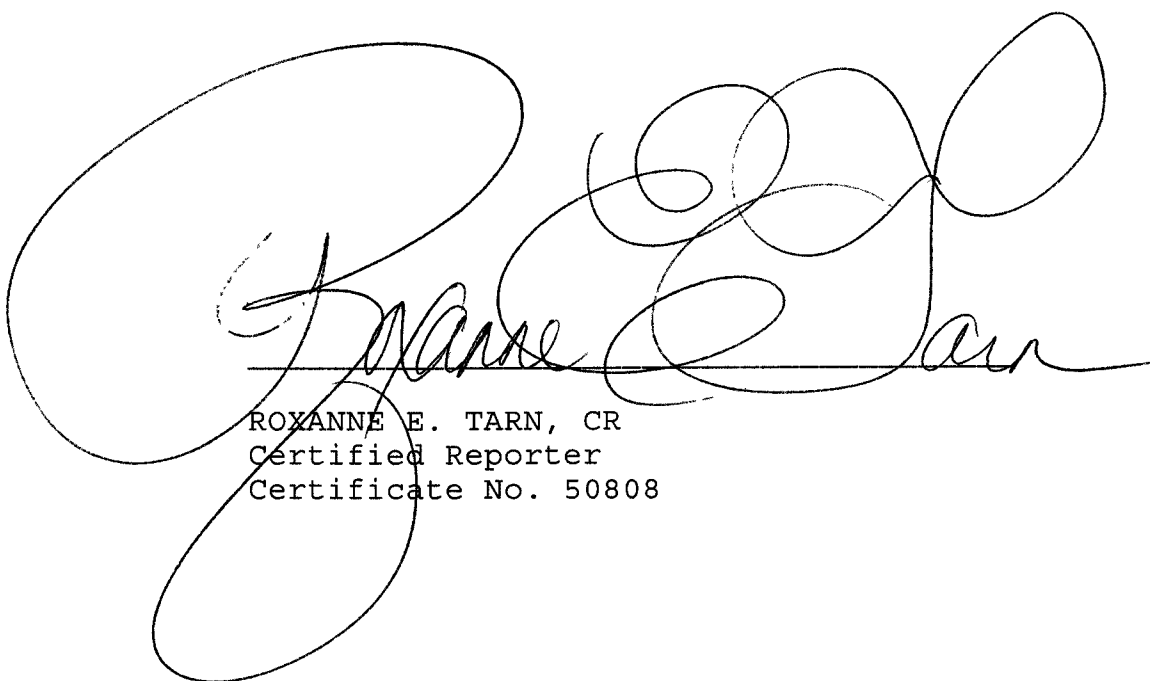
24

25

C E R T I F I C A T E

I, ROXANNE E. TARN, CR, a Certified Reporter
in the State of Arizona, do hereby certify that the foregoing
pages 1 - 103 constitute a full, true, and accurate
transcript of the proceedings had in the foregoing matter,
all done to the best of my skill and ability.

SIGNED and dated this 12th day of November,
2009.



ROXANNE E. TARN, CR
Certified Reporter
Certificate No. 50808